#### AN ORDINANCE

TO REPEAL ARTICLES I-V OF CHAPTER 8, "BUSINESSES," AND TO REPLACE WITH NEW ARTICLES, INCLUDING APPENDICES, AND TO AMEND ARTICLES VI THROUGH XVI OF CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE

WHEREAS, the purpose of this Ordinance is to repeal certain articles and replace them with clearer more concise language and to amend certain articles to make Chapter 8 clearer and more uniform, and include schedules in the City Code;

WHEREAS, the Office of Management and Budget presented the proposed changes to Chapter 8 to City Council and Council approves of the changes;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, that Articles I-V of Chapter 8, "Businesses," of the Code of Ordinances of the city of Greenville are repealed and replaced with new Articles I-V, including appendices, and Articles VI through XVI of Chapter 8, "Businesses," are amended as outlined in Exhibit A which is attached hereto and incorporated herein by reference.

DONE, RATIFIED AND PASSED THIS THE 26 DAY OF November, 2012.

MAYOR

ATTEST:

CITY CLERK

**CITY ATTORNEY** 

CITY MANAGER

REVIE

#### **EXHIBIT A**

# Chapter 8 - BUSINESSES [28]

Cross reference— Electricians, § 6-241 et seq.; examination and licensing of gasfitters, § 6-351 et seq.; closing of businesses for civil emergencies, § 12-39; duty of business owners to keep premises clean, § 16-33; commercial maintenance code, § 16-131 et seq.; smoking in public places, § 16-161 et seq.; secondhand goods, ch. 28; solid waste management, ch. 32; solid waste precollection requirements for business and institutional units, § 32-9; solid waste collection regulations for business and institutional units, § 32-11; use of sanitary landfill by businesses generating large quantities of bulk waste, § 32-44; taxation, ch. 40; utilities, ch. 44; vehicles for hire, ch. 48; zoning district regulations, § 50-151 et seq.; off-street parking facilities, § 50-198; off-street loading facilities, § 50-199; home occupations, § 50-202; child care centers, § 50-203; drive-in restaurants, taverns, nightclubs and package liquor stores, § 50-204; bed and breakfast establishments, § 50-209; sexually oriented businesses, § 50-231 et seq.; fee schedule, app. A.

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSES

ARTICLE III. - ENTERTAINMENT

**ARTICLE IV. - ADVERTISING** 

ARTICLE V. - RESERVED

ARTICLE VI. - ESCORTS, ESCORT BUREAUS AND INTRODUCTORY SERVICES

ARTICLE VII. - GOING OUT OF BUSINESS SALES

ARTICLE VIII. - OUTDOOR DISPLAYS AND CAFES

ARTICLE IX. - STREET VENDORS

<u>ARTICLE X. - PEDDLERS, SOLICITORS, MOBILE VENDORS AND TRANSIENT MERCHANTS</u>

ARTICLE XI. - PRIVATE DETECTIVES

ARTICLE XII. - SEXUALLY ORIENTED BUSINESSES

ARTICLE XIII. – INSURANCE COMPANIES BUSINESS LICENSE TAX

ARTICLE XIV. - TELECOMMUNICATIONS BUSINESS LICENSE TAX

ARTICLE XV. - CABLE FRANCHISE REGULATIONS AND REQUIREMENTS

ARTICLE XVI. - ESTABLISHMENTS SELLING BEER AND WINE

(28) State Law reference— Municipal authority to levy a business license tax, S.C. Code 1976, § 5-7-30. (Back)

#### **ARTICLE I. - IN GENERAL**

Secs. 8-1—8-30. - Reserved.

ARTICLE II. - LICENSES [29]

# (29) Cross reference— Administration, ch. 2.

# **DIVISION 1. - GENERALLY**

### **DIVISION 2. - BUSINESS LICENSE TAX INCENTIVES**

<sup>(29)</sup> State Law reference— Authority to establish business license taxes based on gross receipts, S.C. Code 1976, § 5-7-30. (Back)

### **DIVISION 1. - GENERALLY**

- Sec. 8-31. Payment of license taxes required.
- Sec. 8-32. Purpose.
- Sec. 8-33. Definitions.
- Sec. 8-34. Council to fix business license taxes annually.
- Sec. 8-35. Administration of ordinance.
- Sec. 8-36. Confidentiality of information.
- Sec. 8-37. Application and registration required.
- Sec. 8-38. Employment of auditor to inspect financial records of the business.
- Sec. 8-39. Assessments.
- Sec. 8-40. Computation of license tax.
- Sec. 8-41. Allowable deductions.
- Sec. 8-42. Police background checks required for certain businesses
- Sec. 8-43. Payment of bad check.
- Sec. 8-44. Publication of notice of due date of business license taxes.
- Sec. 8-45. -Classification and occupation.
- Sec. 8-46. Denial, suspension and revocation.
- Sec. 8-47. Notice of denial or revocation; hearing; appeals.
- Sec. 8-48. Display and inspection of business license.
- Sec. 8-49 Separate business location and multiple types of businesses at one location.
- Sec. 8-50. Change of ownership.
- Sec. 8-51. Change of address.
- Sec. 8-52. Businesses that cease operation during the year.
- Sec. 8-53. Penalty for failure to obtain or renew license.
- Sec. 8-54. Collection of delinquent license taxes.
- Sec. 8-55. Public market short-term vendors exempted.
- Secs. 8-56 8-65 Reserved.

#### Sec. 8-31. - Payment of license taxes required.

No person shall be engaged in or carry on any business or profession, either in whole or in part, in the city by maintaining an office in the city or by soliciting orders through such office, or by any other manner whatsoever without having first paid a business license tax and having been issued a business license therefor, as provided in this article and the annual business license tax schedule, unless exempted by the state statute or municipal code.

(Code 1985, § 6-1-1; Ord. No. 97-63, § 2, 10-22-97)

### Sec. 8-32. - Purpose.

The business license tax levied by this article is for the purpose of providing such regulation as may be required by the city for the businesses subject thereto and for the purpose of raising revenue for the general fund, so that the city may provide for the health, safety, and well-being of its citizens, businesses, property owners and the public at large.

### Sec. 8-33. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Business. Any person, as defined herein, who, within the corporate limits of the city of Greenville, engages in, causes to be engaged in, and/or represents to be engaged in, any occupation or activity with the object of gain, benefit, or advantage, either directly or indirectly. This shall include any business advertising by any means including, but not limited to, signs, cards, circulars, newspapers, etc. of engaging in a business of any kind.
- (b) Charitable purpose. A charitable/non-profit organization is operated for purposes that are beneficial to the public interest. Although exemption from a state or federal income tax does not under federal or state law automatically entitle the activity to exemption from a business license tax or preempt local regulation. Charitable, educational, religious and other eleemosynary organizations which are exempt from taxation under the Internal Revenue Code Section 501(c), shall be exempt from a business license tax, except for any non-related business income, outside the scope of the exemption as defined by the 501(c) of the Internal Revenue Code.
  - (c) City. The city of Greenville, South Carolina.
- (d) Engaged in business or carrying on business. The doing or performing of any act of selling or leasing any goods or services, or soliciting business, or offering any goods or services for sale or lease primarily in an attempt to make a profit, including but not limited to selling or performing services or products of a wholesaler or retailer, or provider of personal services; all of the foregoing performed either as an owner, operator, or agent of any business, trade, profession, or occupation within the city.
- (e) Established place of business. A location within the city at which a person engages in or carries on business for the foreseeable future.
- (f) Gross revenues. The total revenue of a business, received or accrued, collected or to be collected. This includes total sales, receipts, premiums, income or otherwise of all business done, including but not limited to that based on goods manufactured, processed, assembled or produced, in whole or in part, within the city. This does not include revenue from business done wholly outside of the city on which a business license tax is paid to some other city or a county and fully reported to the city. Gross revenue for brokers or agents means gross commissions, fees, or other sums received, unless otherwise specified. Gross revenue for insurance companies means gross premiums collected. Gross revenues include revenues realized in any form, whether in money, property or services. Revenues may therefore be realized in the form of services, meals, accommodations, stock or other property, as well as cash, or the value of bartered goods or trade-in merchandise. Gross revenue for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. Gross revenue means all revenue from business operations without any deductions for such things as cost of goods sold, overhead, salaries, costs of sale, or taxes.

Note: Gross revenue may also be referred to in terms of all sales, receipts, premiums, income, commissions, etc.

(g) Non-resident business. Any business not having an established place of business within the corporate limits of the city, but who comes into the city to do business.

- (h) *Person*. Any individual, firm, partnership, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural and the agent or employee having charge or control of a business in the absence of principals.
- (i) Resident business. A business which has an established place of business within the city.
- (j) Term. Business Licenses are good from January 1 to December 31 each year. No business license provided for in this article and the annual license tax schedule shall extend beyond the calendar year of its issue.

### Sec. 8-34. - Council to fix business license taxes annually.

The city council, during each calendar year, shall fix, by ordinance, the various business license taxes to be paid during the next calendar year by all persons prosecuting or carrying on any business or profession, either in whole or in part, in the city. If the city council fails to fix such rates, the rates previously adopted by the city council shall continue to govern until new rates shall be so fixed.

(Code 1985, § 6-1-2; Ord. No. 97-63, § 2, 10-22-97)

#### Sec. 8-35. - Administration of ordinance.

The revenue administrator shall administer the provisions of this chapter, collect business license taxes, issue business licenses, make or initiate investigations and audits to ensure compliance, initiate denial or revocation procedures and assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this chapter in writing, and perform such other duties as may be assigned by the director of the office of management and budget.

(Code 1985, § 6-1-9)

### Sec. 8-36. - Confidentiality of information.

Information as to gross revenue of a business which is furnished or secured under the authority of this chapter shall be kept in strict confidence by the revenue administrator, shall be utilized solely by the officers of the city responsible for administering the provisions of this code and shall not be subject to public inspection except in compliance with federal and state laws which may permit access by authorized persons or in compliance with a valid subpoena and then such inspection or production shall be no greater than required by the law or subpoena, and the revenue administrator may make reasonable requirements to limit the receipts of the information.

#### Sec. 8-37. - Application and registration required.

All businesses shall register and make application for a business license prior to commencing operation. All charitable/non-profit entities as defined in Section 8-33 are exempt from paying a city business license tax but are required to register and pay a registration fee as set forth in appendix A.

- (a) New and renewal application required; contents. Every business required by this article and the annual business license tax schedule is required to obtain a business license to engage in any trade, business or profession shall register by filing with the revenue administrator a statement indicating:
  - (1) The name of the business and the name of its owner and its primary contact, if different from the owner. In the case of a partnership, the applicant will provide the names of persons constituting such business and their respective addresses. In the case of a corporation, the applicant will furnish the true and complete name of the

- corporation, the state or county of its incorporation and its principal place of business;
- (2) Each trade, business or profession for which the license is required;
- (3) The place where such trade, business or profession is to be carried on;
- (4) A business license for a bar must be issued in the name of the individual who has been issued a state alcohol, beer or wine permit or license and will have actual control and management of the business.
- (b) Inaccuracies in financial information; registration to constitute application for license. Whenever it shall appear to the revenue administrator that there are errors or inaccuracies in any registration statement as to the amount, extent or value of the business carried on, the revenue administrator may authorize an audit to ensure compliance with this code. Any overpayment of taxes discovered in this audit shall be issued a refund. Any underpayment shall require a payment of the remaining sum due. Audits can only be conducted on business licenses for current year plus three prior years.
- (c) Submitting false information. It shall be unlawful for any business to supply false or fraudulent information when registering under the provisions of this section including submitting false information on gross revenue. All registration statements shall be subject to check for verification by the city.

(Code 1985, §§ 6-1-4, 6-1-5; Ord. No. 97-63, § 2, 10-22-97)

### Sec. 8-38. - Employment of auditor to inspect financial records of the business.

The revenue administrator may employ, should it be deemed necessary, an auditor to inspect financial records of any business under this article.

- (a) The revenue administrator or an authorized agent may make systematic inspections of all businesses licensed by the city to ensure compliance with this chapter. The revenue administrator may employ, should it be determined necessary, one or more auditors to inspect the financial records of any business under this chapter. In the event an audit or inspection reveals that false information has been filed by the business, the business shall be subject to the correct business license tax, late penalties as elsewhere set out in this chapter and the cost of the audit. Records of inspections and audits shall not be deemed public records.
- (b) It shall be the duty of all businesses to secure, preserve, maintain, and keep for a period of three previously reported years the records and documents which evidence the gross revenue of their businesses or professions. All such records for the past three reporting years shall be subject to such inspection and audit as deemed appropriate by the revenue administrator or an authorized representative. The revenue administrator shall use business records and/or returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agencies to verify gross revenues. (Code 1985, § 6-1-6)

### Sec. 8-39. - Assessments.

When any business shall have failed to furnish the information required by this code to the revenue administrator, the revenue administrator shall proceed to inspect the financial records of the business or any other available records as may be appropriate and to conduct investigations and statistical surveys as deemed appropriate to assess a business license tax and penalties as provided herein. A notice of assessment shall be served by certified mail and an application for adjustment of the assessment may be made to the revenue administrator within ten days after the notice is mailed or the assessment will become final. The revenue administrator shall establish, by regulation, the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment. A final assessment may be appealed to the director of the office of management and

budget.

# Sec. 8-40. - Computation of license tax.

- (a) Basis. The business license tax imposed upon any business under this article or the annual business license tax schedule shall be based upon actual gross revenues for the prior calendar year. The gross revenue for business license purposes may be verified by inspection of business records and/or returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agency.
- (b) Deductions from gross revenue for business done outside city. Deductions for business done wholly outside of the city on which a business license tax is paid to some other municipality or county shall be allowed upon claim for deduction first being made by the applicant or licensee and supported by satisfactory proof that the gross revenue deductions claimed are exempt from the operation of this article.
- (c) Oath of applicant regarding reported revenue. No revenue for a business license tax based on gross sales, receipts, premiums, income or otherwise shall be issued except upon oath of the applicant that the applicant's financial records correspond with the report or return of such gross sales, receipts, premiums, income or otherwise for the corresponding period made or to be made to the Collector of Internal Revenue Service of the United States, the South Carolina Department of Revenue or the Insurance Commissioner of the state, as the case may be.
- (d) Amount of tax. Based upon gross revenues as defined in this code, and subject to the terms of section 8-33 of this article, the amount of taxes owed shall be that shown on the annual business license tax schedule, or elsewhere set out in this chapter.
- (1) New business. When a business shall inaugurate and start a new business enterprise within the corporate limits of the city, the business license shall be based on a reasonable estimate of gross revenues to be received from the beginning operation until the end of the calendar year. If an estimate does not appear reasonable, the license inspector shall require the business to adjust the estimate to one that is reasonable in reference to business activity, location, size, and hours of operation. The business license tax on same shall be due and payable on the day such business is opened to the public. The business license tax will be based on the appropriate rate shown on the annual business license tax schedule.
  - (a) Resident business base fee proration. If a new resident business makes application for a business license before beginning operation in the city, the business license taxes shall be based on an estimate of total gross revenue from the beginning operation until the end of the calendar year and the base fee pro-rated as follows:

percent base fee
percent base fee
percent base fee

- b) Incremental Rates. In addition to the base fee, the incremental rates apply to the estimate over the base fee.
- (2) First time renewal business. First time renewal businesses are required to pay the tax based upon a calculation of the prior year actual gross revenues plus a calculation on the difference between the actual and the estimated gross revenue. No business license tax shall be adjusted to less than the base fee amount.

- (3) Renewal businesses. Businesses, with the exception of non-resident contractors, must renew their business license before the last day of February of each year based on all prior calendar year gross revenues.
  - (4) Non-resident contractors. Non-resident contractors are required to renew their business license prior to beginning any work within the city and all contracts/jobs must be paid on a pay-as-you-go basis during the calendar year in which the contract/job is received. A non-resident contractor business license is good for the duration of the contract/job or until it exceeds the gross revenue amount on which the business license is paid.
- from the requirements of this chapter by reason of the lack of an established place of business within the city unless exempted by state or federal law. Any business not having an established place of business within the corporate limits of the city but who comes into the city to do business, shall pay double the base fee and double the rate per \$1,000 or fraction thereof as set forth or otherwise specified in the annual business tax schedule. The business shall apply for a license based only on the gross sales or contracts made inside the city limits. There shall be no proration of the tax for any non-resident businesses.

(Code 1985, § 6-1-7; Ord. No. 97-63, § 2, 10-22-97)

### Sec. 8-41. - Allowable deductions.

- (a) A deduction for that portion of gross revenues done wholly outside of the city on which a business license tax is paid to some other municipality or county shall be allowed upon claim for deduction first being made by the applicant or licensee and supported by satisfactory proof including but not limited to copies of business license applications to other municipalities that the gross revenue deductions claimed under this section are exempt. Deductions are only allowed on business licenses based on gross revenue, business licenses based on a flat fee etc., are not deductible.
- (b) A business may deduct the amount of sales, use, excise, hospitality, or accommodations taxes collected on behalf of other taxing entities from the amount of gross revenues if these amounts are included in the total gross revenue amounts and supported by satisfactory proof of deduction. However, no deduction will be allowed for sales, use, excise, hospitality or accommodation taxes if the amount of the deduction is not included in the gross revenue amount.
- (c) Automobile dealers located inside the city shall be allowed deductions from gross revenues for excise taxes on tires collected on behalf of other taxing entities, factory warranty claims, and exchanges of new cars with other dealers and supported by satisfactory proof of the deduction.
- (d) Owners of aircraft used in their business and located at the municipal airport (Greenville Downtown Airport) shall receive as a credit against their business license tax the amount of the property tax paid on such aircraft to the city and supported by satisfactory proof of the deduction. The business license tax for any given year shall be reduced by a credit for the amount of property tax paid on the aircraft to the city for the prior tax year. The business license fees of any company and its wholly-owned subsidiaries shall be eligible for this credit.
  - (e) Any deductions cannot reduce the business license tax below the base fee.

#### Sec. 8-42. – Police background checks required for certain businesses.

A police background check will be required for the following new businesses prior to issuance of a business license. Background checks may include owners, partners, managers,

operators and employees as designated below. In addition to the standard background check, fingerprints, photographs and other information may be required as specified below.

- (a) Amusement centers. Background check on owners, partners and managers.
- (b) Bingo operators. Background check on owners, partners and managers.
- (c) Detective agencies. Background check on owners, partners, managers and all other employees.
- (d) Escort services. Background check, photographs and fingerprints on owners, partners, managers and all other employees.
- (e) Sexually oriented businesses. Background check on owners, partners, managers and all other employees.
- (f) Kindergarten, nursery and day cares. Background check on owners, partners, managers and all other employees.
- (g) Pawn shops. Background check on owners, partners, managers and all other employees.
- (h) Precious metal dealers. Background check on owners, partners, managers and all other employees.
- (i) Restaurant, nightclubs, taverns, bars and related clubs. Background check on owners, partners and managers.
- (j) Transient merchants/peddlers/mobile vendors. Background check on owners, partners, managers and all other employees.
- (k) Others as set out elsewhere in this code, or as deemed necessary by the Revenue Administrator.

### Sec. 8-43. Payment by bad check.

Whenever payment of any tax imposed by this chapter is made by a check which is not honored by the drawee bank, any business license issued pursuant to payment by that check, or any renewal of such business license, is void from the date of the business license issuance or renewal. The business license may be reinstated upon payment of the original amount due, plus an administrative charge in an amount not less than the maximum permitted by state law to be charged by retail operations for the same purpose, and any penalties elsewhere set out in this chapter. Such payment shall be by certified check, money order, credit card or cash.

# Sec. 8-44. - Publication of notice of due date of business license taxes.

The revenue administrator has the discretion to do so but shall not be required to serve or mail written notices that business license renewals and taxes are due, but shall cause to be published in at least one newspaper published in the city, at least once during the month of December in each calendar year, a notice that such business license will expire on the last day of December. Such notice shall also include that resident and non-resident businesses, with the exception of non-resident contractors, must pay all taxes due on or before the last day of February of the succeeding year to avoid penalties. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or constitute grounds for waiver of penalties. Any business which has been issued a business license for a calendar year, or portion thereof, shall be responsible for applying for a renewal of the business license for the following calendar year.

# Sec. 8-45. - Classifications and occupations

The classification of a particular business or occupation shall be deemed to be that set forth in the classification schedule in appendix "B" of this code. In the event that a certain business or occupation cannot be located in appendix "B", the revenue administrator shall assign to it a

classification, which incorporates as closely as possible the dominant characteristics of the business. The city may use the North American Industry Classification System (NAICS) as a reference tool for defining the dominant characteristics of a business to properly classify the business but may consider other relevant factors, including but not limited to, other published sources about international, national, statewide or regional data and trends.

In addition the following definitions shall apply.

- a. Advertising agencies. Establishments primarily engaged in preparing advertising (writing copy, artwork, graphics, and other creative work) and placing such advertising in periodicals, newspapers, radio, and television, or other advertising media for clients on a contract or fee basis. Advertising agencies are responsible for reporting the commissions or fees they collect for the services they provide.
- b. Agents, brokers, or factors. Those individuals representing more than one company and selling goods and/or services on behalf of third parties. These businesses shall include in their gross receipts the amount of any commission, fees, or emoluments earned by the agent, broker, or factor by reason of such sales.
- c. Apartments. A location with three or more dwelling units, offered for rent with the rentals being handled by the owner or a leasing agent.
- d. Aircraft distribution facility. Establishments which receive delivery of aircraft manufactured elsewhere and delivered to this jurisdiction for receipt by the new owner when the sales have been negotiated in whole or in substantial portion in another jurisdiction, and the category shall include ancillary operations.
- e. Air taxi services. Businesses that provide aircraft transportation to destinations in other cities for hire.
- f. Automobile dealers. Automobile dealers located inside the city shall base the business licenses on total gross revenues. Allowable deductions from gross revenues are for excise taxes on tire sales, factory warranty claims, and exchanges of new cars with other dealers.
- g. Barbers and beauticians. Each barber or beautician must obtain a separate business license unless the person is an employee. "Employed by the business" means the individual receives wages from the employer on a scheduled payroll plan including W-2 statements at year-end.

The shop owner must also purchase a business license. This license should include any revenue from booth rentals, any commissions received from other licensed barbers/beauticians located in this shop, any retail sales of hair related products, plus the revenue received from cutting and styling hair by the shop owner and any employees.

A separate retail business license should be purchased for sales of items not related to personal grooming products.

- h. Boarding/rooming houses. The business operation of any building, other than a hotel, where, for compensation and by prearrangement for definite periods, meals or lodging, or both are provided for three or more persons with tenancy arranged on a monthly or longer basis.
- i. Building and construction. Every business that, as building contractors, for a fixed price, commission, fee or wages, or other consideration offers a bid to construct or supervise the construction, alteration, or repair to any building, shall pay a business license tax based on total gross contracts. This shall include, but not be limited to, all of the following types of contractors: air conditioning, asphalt surfacing, brick layers, cement finishers, concrete pumping, dirt, sand or rock haulers, drywall, electrical contractors, elevators, excavating and grading, fabricators, fencing, floor covering, floor finishers, glass, heating, home improvements, not specifically classified elsewhere herein; home insulations, house moving or demolishing, lathers, masonry, painters, paper hangers, plasterers, plumbing contractors, refractories, sprinklers, septic tank installation, steam cleaning of buildings, etc., steam or pipe fitters, steel erectors, stone erectors, swimming pool

installation or cleaning, tin and metal workers, utility, weather stripping, waterproofing, and any specifically enumerated herein.

Subcontractors furnishing labor and construction management businesses shall be held liable for payment of the business license tax just as other contractors. Every person, firm, or corporation who offers to provide labor, job, or contract is subject to a business license.

The prime contractor, before commencing any job, shall post in plain view on the job site a sign identifying himself with the job. The prime contractor shall furnish the city revenue division, the name and address of each subcontractor and material supplier having any part whatsoever to do with the job or construction thereof.

No business license shall be issued until all requirements of applicable sections of the city code of ordinances and regulations issued thereunder prerequisite to issuance of a business license have been complied with by the applicant.

j. Commercial property. Commercial properties are properties not solely used as residences or dwellings. Commercial/rental property requires a business license when the property generates \$5,000 or more annually. If the same entity owns more than one property, one business license will be required with all gross rental income included on that license.

### **Exemptions:**

- (1) Commercial properties that are owner-occupied by the same entity.
- (2) Commercial property that generates less than \$5,000 in gross rental income must register and file an application, however, no tax is required.
- k. Delivery Agencies. Those businesses that deliver materials, goods, or supplies, etc. on behalf of a third party as a service by any means shall be classified as a delivery agency and subject to a business license.
- l. Finance Companies. A business engaged in making loans for personal, family or household purposes.
- m. Fortunetelling. The business of fortunetelling, palmistry, phrenology, clairvoyance, or prediction of future events by cards, etc. is prohibited within the city.
- n. High technology growth businesses. Establishments primarily engaged in internet technology—web design, digital media, biotechnology, research and development for new telecommunications technologies and equipment design, medical device design and engineering, scientific discovery and proprietary electronic equipment or businesses providing systems for computer software design or hardware design, or both, based on the assessment of customers' business or organizational needs, or providing the maintenance of such systems. This does not include the mere sale or installation of standard retail software packages or individual hardware components.
- o. Hotels and motels. Establishments providing lodging, and certain other overnight temporary services, for the accommodation of travelers, semi-permanent residents, etc. A business license will be required to cover lodging and accommodation activities. A separate business license is needed for all other business activities conducted at the same location.
- p. Independent agents and contract employees. Businesses which have independent agents or contract employees renting space and working independently out of a licensed operation will be responsible for including the gross revenue of such independents and paying the business license tax on this revenue or for reporting that they are not including the gross revenue of such independents and submit a list of names of each. If the revenue of the independent agent or contract employee is not included on the gross revenue of the licensed business, the independent agent or contract employee must then report these receipts separately and obtain a separate business license. This article shall not apply to barbers and beauticians.

- q. Manufacturer. A business which, within the city, either directly or by contracting with others for the necessary labor or mechanical services, does any kind of production, assembly, manufacturing or processing of any goods, wares, or products, in whole or in part, for commercial use or for sale any articles, substances or commodities, including but not limited to the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced; the production or fabrication or special or custom-made articles; the making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing, and freezing of fresh foods, fruits, vegetables and meats.
- r. Nightclub, taverns, bars, and related clubs. Any establishment, whether public or a private club, etc., serving a predominantly adult clientele, and whose primary business is the sale of alcoholic beverages, including beer and wine, for consumption on the premises with or without dancing or live performances. The purchase of food is at the option of the customers and not required by the operator. The sale of alcoholic beverages, beer and wine must be licensed by the South Carolina Department of Revenue.
- s. Office maintained. When a business has no revenues from activities, such as but not limited to, sales or services, the license tax may be determined by allocations and apportionments in South Carolina on the federal and state tax returns. The businesses in this classification will pay at least the base fee amount.
- t. Property developer. A business that buys property to develop for resale. Development includes purchasing property and making improvements, additions, and/or construction of buildings. The business shall obtain a business license on no less than the required permit or contract amounts. Once a developer sells a parcel of property, he should report the difference in the permit contract amount and the selling price of the property.
- u. Psychotherapy. Those businesses which provide psychiatric, counseling, therapy, and/or other similar services to individuals or groups of individuals.
- v. Real estate agency. Any business selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate and the renting or leasing of residential or commercial properties for themselves or on behalf of others. These businesses will be responsible for including the gross revenues of all independent agents along with their total gross revenues and paying the business license tax on all revenues.
- w. Restaurants or other food service establishments. Any establishment, whether open to the public or operated as a private club including drive-ins, whose primary business is serving meals prepared on the premises for consumption on the premises. Any defined portion of the restaurant where alcoholic beverages, including beer and wine, are served but the purchase of food is optional shall be clearly subordinate to the main dining area, where the purchase of food is expected and required by the operator. The sale of alcoholic beverages, beer, and wine must be licensed by South Carolina Department of Revenue Alcohol Beverage Licensing. Restaurants are separated into three groups: (1) those that do not serve alcoholic beverages; (2) those that serve alcoholic beverages but close before midnight; and (3) those that remain open after midnight regardless of sale of beer, wine or alcoholic beverages.
- x. Retailer. A business that sells to the consumer or any other end user for any purpose other than for resale anything in the form of tangible personal property.
- y. <u>Temporary/seasonal businesses</u>. A business that intends to operate for six months or less, and that does not intend to establish a permanent location in the city will be required to purchase its business license at the nonresident rate. Examples of these businesses would be Christmas tree lots, temporary kiosks in the mall, summertime vendors, etc.

Any established retail business which opens a kiosk in the same location as its permanent location with the same business name, shall include the gross revenue from the kiosk on the permanent location business license.

- z. Transient merchants. A transient merchant is any business which sells or purchases goods, wares, merchandise, or anything of value, and who for himself or as an agent for another, rents, erects, purchases, uses, or occupies any room, building, or other structure or place, including but not limited to parking lots, shopping centers, sidewalks, or any other public area, for the purpose of purchasing, selling, or offering for sale anything of value at such location without the intention of establishing a permanent business there at; and without having acquired a regular city business license. Each transient merchant shall obtain a city transient merchant's license prior to offering goods, wares, merchandise, or anything of value for sale.
- aa. Vending machines. A business owning or servicing coin/dollar bill operated machine which dispenses food, beverages, goods or services. Any business in the city shall be required to purchase the annual business license based on gross revenues if they operate a vending machine in the city. Vending machine (drink machines, cracker machines, cigarettes, etc.) owners are not required to pay an annual fee per machine in addition to the business license.
- bb. Warehouse, mini-warehouse and storage facilities. A building or place used for the business of storing personal property, goods, wares, and merchandise whether for the owner or someone else.
- cc. Wholesaler. A business that sells to someone who will resell the property. It does not include a sale to a user or consumer.

### Sec. 8-46. – Denial, suspension and revocation.

- (a) Generally.
- (1) The city manager, or his designee, shall have authority to deny, suspend or revoke any business license under the provisions set forth in this article.
- (2) For a period of one year after a revocation of a business license, no new license shall be granted to:
  - a. The same licensee; or
- b. The licensee's agent or any person who can be shown to be acting on the licensee's behalf in attempting to do business in the city.
- (3) For a period of one year after a revocation, no business license shall be granted to any applicant for the operation of the same or similar type of business in the same location without a detailed report compiled from city departments with knowledge or information acquired on the new applicant and the proposed business activity. If the report supports a finding that the new applicant and proposed activity will circumvent the effect of the business license revocation, or that issuance of a new license will perpetuate the conditions giving rise to the revocation, then no new license shall be issued.
- (b) Grounds for denial, suspension or revocation. A license application under this article may be denied, or an issued license may be suspended or revoked, upon any of the following grounds:
  - (1) Any principal involved with the business [who] has been convicted, forfeited bond, or plead guilty or nolo contendere within the last ten years for the violation of any local, state, or federal law for which there is a potential penalty of one year or more in jail.

    Any principal involved with the business [who] has been convicted, forfeited bond, or pled guilty or nolo contendere within the last five years, regardless of the length of potential penalty for a jail term, to the following offenses:

- Sale, possession, storage, or transportation of intoxicating liquors, wine or a. b. Sale or possession of narcotics or other controlled substances; Gambling or the sale of illegal lottery tickets; c. Sale or promotion of obscenity; d. e. Prostitution or soliciting for prostitution; f. Sale or possession of weapons; or Crime of dishonest conduct. g. When the principal was convicted, forfeited bond, pled guilty or nolo contendere in another state jurisdiction or the jurisdiction within another country, then the offense shall be assessed on the potential jail sentence of the nearest comparable offense under South Carolina law. For purposes of this section, the term "principal involved with the business" shall include the applicant, the licensee, and any owner of five percent or more of the business, the manager of business or financial operations, or the person directly in charge of the premises. The term may also include a major financer of the business when the financing arrangement has the appearance of masking actual ownership. The disqualification for prior offenses is not automatic, for good cause shown by the business, the denial, suspension, or revocation may be waived or withdrawn upon a finding of mitigating circumstances justifying the issuance in the public interest. (2) The licensee's operation of the business constitutes a public nuisance, provided the determination of the public nuisance arises from one or more of the following activities on the premises or in the immediate vicinity thereof and the licensee has actual or constructive knowledge of the activities: Frequent arrests of persons for crimes of violence, possession or sale or controlled substances, possession or sale of deadly weapons, the discharge of fire arms, excessive noise, disorderly conduct, prostitution, disturbance of the peace, and the illegal acts correspond with or relate to the hours of operation of the business operations of this licensee; The police make an unusually high number of response calls, regardless of b. arrests, to the business premises, or to the immediate vicinity, and the high number of response calls corresponds with or relates to the hours of business operations of the licensee; There are ongoing and significant deposits of litter and debris in the immediate vicinity, whether the persons making the deposits can be identified or not, when the litter and debris relate to the business operations of the licensee; and Material violations of property maintenance codes, environmental codes, fire d. code, and building codes where violations are applicable to the business premises. Failure to provide sufficient security measures to protect people and property located (3)
- (4) The provision of materially false and inaccurate statements in the business license application or to a city official at the time of application;
   (5) Failure to pay municipal taxes or fees applicable to the premises or business

on the premises and to protect people and property located in the immediate vicinity when the immediate vicinity is affected by the business operations of the licensee;

(5) Failure to pay municipal taxes or fees applicable to the premises or business operations when due, including, but not limited to, personal and real property taxes, hospitality taxes, accommodation fees and accommodation taxes, property

- assessments, sewer fees, stormwater fees, and fire alarm and false alarm fees;
- failure of an applicant or licensee to show current compliance with applicable state laws related to the operation of business activities, including, but not limited to, any requirement to maintain sanitary kitchen facilities, to be in compliance with permitting requirements for the service of alcoholic beverages, beer and wine, or to pay state taxes and fees related to business operations in a timely manner.
- (7) Failure to provide full payment to the city within ten days of notice of a check returned to the city for insufficient funds. Full payment means the full amount due of the original check plus costs and fees assessed to the city by its bank for the return of the check presented, as well as any return check fee otherwise assessed by the city.
- (8) Failure to provide substantiation, when asked by the city, that the actual business use of the location for which a business license has been applied for or granted, complies with what is allowed at the location under the city's zoning ordinance. Nothing in this provision shall be interpreted to abrogate or limit any variances, special exceptions, or lawful nonconforming uses, previously established under the city's zoning ordinance. In the case of amortization of signs, structures, and uses, the business owner must demonstrate that the amortization period has not expired. In instances requiring an interpretation of the zoning administrator, such interpretations may be rendered in accordance with the duties assigned to the zoning administrator under the zoning ordinance.

(Ord. No. 2004-44, § 2, 6-28-04; Ord. No. 2007-13, 3-19-07; Ord. No. 2009-97, § 3(Exh.), 12-14-09)

Editor's note— Ord. No. 2004-44, § 1, adopted June 28, 2004, repealed former § 8-43 of the Code in its entirety; § 2 of said ordinance added new provisions as § 8-43 as herein set out. Former § 8-43 pertained to revocation generally and derived from the 1985 Code, § 6-1-14.

# Sec. 8-47. - Notice of denial or revocation; hearing; appeals.

- (a) Notice. Where grounds exist to deny or revoke a license under this article, the business license administrator shall provide written notice to the licensee or applicant setting forth the grounds, revoking the license effective 45 days from the date of the notice, and advising the licensee or applicant of appeal procedures.
- (b) Hearing. The applicant or licensee may, within five business days from the date of the notice, request a hearing to contest the grounds or request an extension of time to close the business. The hearing shall be held within 15 days unless additional time is allowed by the city manager. The hearing officer shall be a supervisory employee designated by the city manager. The licensee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. The licensee may view and copy any documentary evidence prior to the hearing. Formal rules of evidence shall not apply. The hearing officer shall prepare a summarized report of the hearing, to include his findings and recommendations, which shall be submitted to the city manager, who shall take final administrative action, notifying the licensee or applicant in writing. Unless extended in writing by the city manager, any revocation is effective 45 days from the date of the original notice to the licensee.
- (c) Appeals. An appeal, which shall not stay the revocation, may be taken upon the written record to the city council. Notice of such appeal shall be served upon the city clerk within five business days from the final action by the city manager, specifying the grounds for the appeal and the action requested. The record shall consist of the report of the hearing officer, any documentary evidence presented at the hearing, and the written appeal. The city council may, in its discretion, hear oral arguments on the appeal.

(Ord. No. 2004-44, § 2, 6-28-04)

Editor's note— Ord. No. 2004-44, § 1, adopted June 28, 2004, repealed former § 8-44 of the Code in its entirety; § 2 of said ordinance added new provisions as § 8-44 as herein set out. Former § 8-44 pertained to notice of denial or revocation; hearing; appeals and derived from the 1985 Code, § 6-1-15.

### Sec. 8-48. - Display and inspection of business license.

All businesses having paid the business license tax as required by this article shall upon receipt, display the business license in a conspicuous place at the location where business is carried on. Prior to receipt of such license, such business shall display the receipt for payment of such license. The city business license inspector, police officer or other authorized agent of the city shall have the right at all reasonable times to enter such places or buildings for the purpose of inspecting such business license or receipt. Any person failing to exhibit such business license or receipt in the manner described in this section, and any person preventing or hindering such inspector, police officer or other agent from entering such premises and inspecting such business license or receipt, shall be in violation of this code and shall be subject to being charged for such violation.

(Code 1985, § 6-1-17; Ord. No. 97-63, § 2, 10-22-97)

## Sec. 8-49. Separate business location and multiple types of businesses at one location.

- (a) A separate business license shall be required for each business location operated by a business in the city.
- (b) For each type or classification of a multiple business operation a separate business license for each operation is required. If the gross revenue cannot be allocated among business classifications conducted at one location, the business license tax shall be computed on the classification with the higher rate, combining gross revenue less \$2,000 for each separate classification. Each separate classification shall pay at least the minimum base fee. (Code 1985, § 6-1-19; Ord. No. 97-63, § 2, 10-22-97)

#### Sec. 8-50. – Change of ownership.

If a new resident business purchases the assets of an existing licensed business - one that has renewed the business license for the current year - the new business shall file a new business license application reporting the estimated gross revenue for the remainder of the year and pay a \$50 administrative transfer fee. Businesses that change ownership during the year will be allowed 45 days to file the new application with the business license office. A business license cannot be transferred if the existing business license has expired. All other new business requirements still apply. Business licenses are not transferable under any other conditions.

### Sec. 8-51. – Change of address.

Any business required by this chapter to register the business or occupation shall notify the revenue administrator within thirty (30) days of a changed of mailing address or street address.

### Sec. 8-52. – Businesses that cease operation during the year.

Businesses licensed under this chapter that cease operations shall notify the revenue administrator within 30 days of such cessation of operations. No refunds will be issued to businesses that cease operation during the course of the year.

# Sec. 8-53. - Penalty for failure to obtain or renew business license.

For nonpayment by a new business by its opening date, or for nonpayment by a licensed business by the renewal due date (last day of February each year), of all or any part of the business license tax in this section, an administrative penalty as outlined in this section shall be added to the unpaid business license tax or assessment. For each additional month, or portion of same, that the tax remains unpaid, there shall be added an additional penalty in accordance with the following:

New Business:	1 <sup>st</sup> month	10 percent	Renewals:	March	10 percent
	2 <sup>nd</sup> month	20 percent		April	20 percent
	3 <sup>rd</sup> month	30 percent		May	30 percent
	4 <sup>th</sup> month	40 percent		June	40 percent
	5 <sup>th</sup> month	50 percent		July	50 percent

This penalty is calculated as a percentage of and added to the business license fee.

If a business has been in operation in the city without first obtaining a city business license, such business shall be subject to the taxes and penalties set out by this chapter and the annual business license tax schedule in accordance with the penalties applicable to a "new business" for a period of up to three prior years plus current year. In addition, the business and its principals may be prosecuted in municipal court. Business license taxes will be based on respective prior year rates. Penalties will be applied to prior year taxes based upon the current penalty structure.

Partial payment may be accepted on business licenses provided such partial payment shall be applied to any penalties first and any remaining balance of payment shall be applied to the actual business license taxes. Additional penalties shall continue to accrue until such business license is paid in full.

Businesses that fail to pay the business license tax after formal notification shall be subject to a uniform summons.

For good cause shown, but not otherwise, a business may petition the city manager for a reduction of the penalties otherwise due when the failure to pay is not willful and is more than mere oversight and inadvertence.

(Code 1985, § 6-1-20; Ord. No. 97-63, § 2, 10-22-97)

#### Sec. 8-54. - Collection of delinquent license taxes.

If any business license tax due under this article and the annual business license tax schedule shall remain unpaid 60 days after December 31 each year, the city shall proceed with all available procedures under the law, including, but not limited to, issuance of uniform summons or appearance in municipal court or enforcement through the court of common pleas. Enforcement in the court of common pleas shall entitle the city to recovery of attorney fees and costs of action.

(Code 1985, § 6-1-21; Ord. No. 97-63, § 2, 10-22-97)

#### Sec. 8-55. - Public market short-term vendors exempted.

Public market short-term vendors shall be exempt from the city's business license tax. For purposes of this section, the following definitions shall apply:

Public market means any commercial center of operation, owned by a federal, state, county or municipal government, in which a significant portion of the premises, whether inside a building or outside, is regularly and continually set aside for the sale of farm and orchard produce, processed foods, crafts, and like miscellaneous personal, family, and household products.

Short-term vendors means those persons who lease, sub-lease, or otherwise lawfully occupy a portion of the premises at a commercial center of operation with the consent of the owner for a period of less than one year, and who customarily sell farm and orchard produce, processed food products, and/or crafts as their predominant products.

(Ord. No. 96-12, § 1, 2-26-96)

### Secs. 8-56 - 8-65. - Reserved.

# **DIVISION 2. - BUSINESS LICENSE INCENTIVES** [30]

(30) Editor's note— Ord. No. 2000-20, §§ 1—4, 6, adopted March 27, 2000, did not specifically amend this Code. Hence, inclusion as §§ 8-55—8-59 was at the discretion of the editor to read as herein set out. See the Code Comparative Table.

Sec. 8-66. - Business license tax incentive created.

Sec. 8-67 - License tax abatement schedule.

Sec. 8-68- Qualifying requirements.

Sec. 8-69 - New business defined.

Sec. 8-70 - Eligible tax year.

Sec. 8-71- Anniversary discounts.

Sec. 8-72 – Early payment discount for annual resident business license renewals.

Secs. 8-73 – 8-75 – Reserved.

# Sec. 8-66. - Business license tax incentive created.

There shall be a business license tax category of "new business qualifying for incentives". The category shall apply to those business operations which city council has determined to be beneficial to the city's economic growth, either city-wide or in selected areas. Rates otherwise applicable under the city's classifications for business license tax purposes, as from time to time amended, shall be abated for new businesses qualifying for the category as provided in section 8-67. (Ord. No. 2000-20, § 1, 3-27-00)

### Sec. 8-67. - License tax abatement schedule.

- (a) Businesses which meet the requirements of "new business qualifying for incentives" as provided in section 8-68 shall have their business license taxes abated in the following manner:
  - (1) One hundred percent for the first taxable year of operation or any portion thereof;
  - (2) Sixty-six percent for the second taxable year of operation;
  - (3) Thirty-three percent for the third taxable year of operation.
- (b) Any business which meets the requirements of section 8-68 and which is issued a business license permit for less than a six-month period in its first taxable year of operation may elect to extend its 100 percent abatement to the second taxable year provided it pays 50 percent of the tax otherwise due in the third taxable year.
- (c) No business and no successor or affiliated business entity having one or more of the same principals and substantially the same business activity may cease business operations in the name of one business and then resume business operations in another name if the effect of such resumption is to circumvent this section or to prolong the incentives provided beyond the third taxable year.

(Ord. No. 2000-20, § 2, 3-27-00)

### Sec. 8-68. - Qualifying requirements.

Businesses which meet any one of the following requirements shall be designated as "new business qualifying for incentives" and receive the business license tax abatements provided in section 8-67:

- (1) Corporate headquarters is defined as the national or regional operations of a corporation, real estate investment trust, general or limited partnership, or comparable business entity, provided the business operations has offices, production facilities, shipping locations, wholesale facilities, or retail outlets in other states. A majority of the management, legal, planning, marketing, and personnel operations must be handled or supervised from the corporate headquarters. The headquarters must have responsibility for an area including South Carolina and at least two other states.
- (2) Manufacturer is defined as a person who either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: Materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new, different, or useful article of tangible personal property of substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing, and freezing of fresh foods, fruits, vegetables, and meats.
- (3) Manufacturing is defined as doing any kind of business as manufacturers, which includes any goods, wares, or products manufactured, processed, assembled or produced with the city in whole or in part, regardless of where ultimately sold, distributed, or disposed of and not herein specifically taxed in another classification under the city's business license ordinance.
- (4) Research and development is defined as those facilities or enterprises devoted directly and primarily to research and development in the experimental or laboratory sense for new products, new uses, for existing products, or for improving existing products. The facility must be a separate facility devoted primarily to research and development as defined in this section. The abatement does not include facilities used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects.
- (5) High technology growth businesses are defined as those enterprises which have as the primary revenue component of their business activity the earnings derived from the design, engineering, development, or production of innovative technology in businesses which are expanding significantly in the world economy. Examples include companies primarily engaged in activities such as: Internet technology, digital media, biotechnology research and development, wireless and high speed telecommunications, computerized technologies and equipment design, medical device design and engineering, and propriety electronic equipment, with micro chip components, or businesses providing systems for computer software design or hardware design, or both, based on the assessment of customers' business or organizational needs. This category does not include the mere sale or

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- installation of standard retail software packages or individual hardware components.
- (6) Businesses in designated areas are defined as selected categories of businesses which are located in designated areas as shown in the chart below.

  Council finds promoting these types of businesses in the designated areas will promote the city's growth. The categories of 1 through 5 above also qualify in all designated areas.

Designated Area	Eligible Business License Category	
CBD Tax Increment Financing District	Retail Retail	
West End Tax Increment Financing District	Retail, Artist	
Pleasantburg Overlay District	Professional Services	
Pendleton Street, from South Main Street to city	Retail, Artist, Professional Services	
limits, where zoned commercial		
Annexed Property	All Business Categories except Category "M"	
	and "X" in Appendix A, B, and C of the City's	
	Business License Ordinance Number 94-74, as	
·	amended.	
City Wide	Corporate Headquarters, Manufacturer,	
	Manufacturing, Research and Development,	
	and High Technology Growth Businesses	

(7) Similar businesses is defined as the city manager extending the incentive to similar businesses deemed appropriate based on recommendation from the economic and community development department based on jobs or capital invested.

(Ord. No. 2000-20, § 3, 3-27-00; Ord. No. 2002-87, § 1, 11-25-02; Ord. No. 2003-73, § 1, 9-8-03; Ord. No. 2005-27, Exh., 4-11-05)

### Sec. 8-69. - New business defined.

Any business shall be considered "new" for purposes of this division if it meets any one of the following:

- (1) It is on real property which is annexed into the city.
- (2) It establishes a location for business operations within the city even if it has previously conducted the same or similar operations at locations outside the city.

(Ord. No. 2000-20, § 4, 3-27-00)

### Sec. 8-70. - Eligible tax year.

A new business which qualifies under section 8-68 becomes eligible for the abatements of this division in the tax year during which it commences business operations within the city. In the case of the annexation of undeveloped or grossly underdeveloped property, the eligibility which is based on being a business in the designated area of 'annexed property' shall be available to qualified new businesses commencing operations within three years of annexation of the property.

(Ord. No. 2000-20, § 6, 3-27-00; Ord. No. 2003-73, § 2, 9-8-03)

### Sec. 8-71. - Anniversary discounts.

Whenever the city manager projects that all business license tax revenues for the City will equal or exceed the city's business license tax revenues for the preceeding tax year, there shall be an

anniversary discount for resident businesses achieving longevity milestones and are in "good standing" with the city's codes and regulations. This anniversary discount will be given on business license renewals following their anniversary. For resident businesses that have been in existence in the city for ten years, indicated by their business start date, will receive a 5 percent anniversary discount off of their calculated business license tax. Businesses in existence for fifteen years will receive a 7.50 percent anniversary discount and businesses in existence for twenty years will receive a 10 percent anniversary discount on their calculated business license tax. For each five year increment after twenty years there will be a 10 percent anniversary discount on their calculated business license tax remittance. No anniversary discount given will exceed \$10,000.00. Annual business license taxes will be submitted as required by code and anniversary discounts will be remitted to applicant after reviewed by staff. The revenue administrator shall determine, if needed, the correct business start date to be used consistently.

### Sec. 8-72 - Early payment discount for annual resident business license renewals

For resident businesses in "good standing" with the city's codes and regulations, there will be a 2 percent discount allowed to be deducted off the calculated business license tax remittance. The resident business must submit their annual business license renewal postmarked by the U.S Postal Service on or before the last day of January each year to be eligible for the early payment discount. No discount will be given below the rate category base fee amount.

# Sec. 8-73 - 8-75 - Reserved.

Editor's note—Ord. No. 2003-73, § 3, adopted Sept. 8, 2003, repealed former § 8-60 of the Code, which pertained to license tax abatement for businesses located in tax increment finance districts and derived from Ord. No. 2000-45, adopted June 12, 2000.

### **ARTICLE III. - ENTERTAINMENT**

Sec. 8-76 - Radio and television stations.

Sec. 8-77 - License tax on certain coin-operated machines.

Sec. 8-78- Coin operated machines.

Sec. 8-79- Bingo game operators and employees.

Sec. 8-80- Group event license for shows and entertainment events.

Secs. 8-81-8-85. - Reserved.

### Sec. 8-76. - Radio and television stations.

- (a) The conducting or carrying on of the business of producing radio or television programs for the purpose of broadcasting is hereby declared to be a privilege.
- (b) The operation of the business of intrastate radio or television broadcasting in the city is hereby declared to be a privilege; provided, however, the provisions of this section shall not apply to that portion or part of such business as may be interstate or foreign commerce, and this section shall not include business done to or from points without the state or any business done for the federal government, its officers or agents.
- (c) The business of radio or television broadcasting engaged in by a person is declared to be a privilege under the provisions of this chapter, and each person so engaged shall pay an annual business license tax to the city for the privilege of engaging in such business in the amount set forth in the annual schedule of license taxes.
  - (d) It is the intention of this section to charge a license tax only on the local activities and

solicitations of such persons engaged in the business of soliciting advertising in all of its phases, and it is not the intention of this section to place a license tax on any portion of such business as may be interstate or foreign commerce, and this section shall not include business done to or from points without the state but only intrastate business, nor shall this section include any business done for or with the United States, its officers or agents.

(e) It is the intention of this section to tax only the intrastate operations carried on by persons owning or operating radio or television broadcasting offices or establishments which fall in the classifications established by this section, and it is not the intention of this section to impose any tax upon the interstate operations of such establishments or businesses.

(Code 1985, § 6-1-24; Ord. No. 97-63, § 2, 10-22-97)

# Sec. 8-77. - License tax on certain coin-operated machines.

Amusement machines licensed pursuant to the general law of the state shall be assessed \$180.00 per year per machine, or such subsequent maximum as the general assembly by statute shall permit, payable by every person who maintains such machines for use or permits the use of such machines, on a place or premises occupied by him. This tax shall be in addition to business license tax of \$12.50 per business taxed, as permitted by S.C. Code 1976, § 12-21-2746, or such subsequent maximum amount as the general assembly by statute shall provide.

(Code 1985, § 6-1-25; Ord. No. 97-63, § 2, 10-22-97; Ord. No. 97-64, §§ 1, 2, 12-22-97)

### Sec. 8-78. - Coin-operated machines.

Amusement machines operated by any person, firm, or corporation in the city shall be required to purchase the annual business license based on gross receipts as well as a separate permit for each machine located within the city. All coin-operated machines shall at all times display in a conspicuous place on the machine the name, address, and telephone number of the owner and shall not be operated on any street right-of-way. Classes of coin machines are:

- (a) Class I Machines. A machine (pool tables, machines for the playing of music or kiddie rides, foosball tables, etc.) licensed pursuant to South Carolina Code §12-21-2720 (A) (3) shall be assessed a permit fee of \$15 per year per machine.
- (b) Class II Machines. A machine for the playing of amusements or video games (Pac Man, Donkey Kong, etc.) licensed pursuant to South Carolina Code §12-21-2720 (A) (3) shall be assessed a permit fee of \$15 per year per machine.
- (c) Class III Machines. Any playing card machines (Poker, Black Jack, 21, etc.) licensed pursuant to South Carolina Code §12-21-2720 (A) (3) shall be assessed a permit fee of \$150 per year per machine.

New coin-operated permits will be pro-rated as follows:

	Class I, II	Class III
January 1 - April 30	\$15	\$150
May 1 - August 31	\$10	\$100
September 1 - December 31	\$ 5	\$ 50

### Sec. 8-79. - Bingo game operators and employees.

- (a) In addition to the information necessary for a business application, bingo game operators shall supply the following information for the owner and all employees on a form to be supplied by the revenue administrator:
  - (1) Name, including any aliases, and trade names used.
  - (2) Present residence, business address and telephone numbers.
  - (3) Each residence and business address for the preceding five years.

- (4) Valid proof of age and date of birth for each owner or employee, and height, weight, and color of eyes and hair.
- (5) All prior criminal convictions except minor traffic offenses.
- (b) No license shall be issued if any employee or owner has been convicted of any felony or of a misdemeanor involving moral turpitude within five years of the application. (Code 1985, § 6-11-5)

### Sec. 8-80. - Group event license for shows and entertainment events.

Transient merchants (exhibitors) participating in a group event including, but not limited to, booth sales and flea markets, may obtain a group event business license (in lieu of an individual transient merchant license) from the city's revenue division by filing an application specifying the sponsoring organization or person, the dates and location where the event is to be held, the purpose of the event, and the names of the participants. Taxes for a group event business license shall be as set forth in appendix "B" of this code.

- (a) Shows. For purposes of this section, a show (exhibition) is a group participation event in which exhibitors display in individual booths, stalls or any other specific division of an exhibition area, for the purpose of presenting to an audience goods, wares, merchandise or services offered for sale, rent or promotional purposes or for the general good will of the exhibitors. Shows generally are of two types: trade shows and public shows.
  - (1) Trade shows. For purposes of this section, the term "trade show" means an exhibition or show:
    - a. To which the public generally is not invited;
  - b. Where those participating as exhibitors or observers generally have a common business or other interest;
  - c. Where registration of exhibitors and observers is structured and admission is restricted; and
    - d. Where on-floor sales are not the primary purpose.

Neither the producer, promoter or sponsor of nor an exhibitor or participant in a trade show is required to acquire any city business license.

- (2) Public shows. For purposes of this section, the term "public show" means any type of consumer-oriented show (exhibition) to which the public is invited and admitted, with or without charge, and at which exhibitors present goods, wares, merchandise or services for sale, rent or promotional purposes.
  - a. The producer, promoter or sponsor of a public show shall acquire a city business license prior to the opening of the show. The license shall be for a period not to exceed seven consecutive days. The fee for the license shall be fixed from time to time by the city council and is set forth in the fee schedule in appendix A to this code.
  - b. To obtain such a license for such a public show, the producer, promoter or sponsor shall make application to the revenue administrator at least ten days prior to the scheduled event, naming the producer, promoter or sponsor, specifying the dates and location of the event, specifying the purpose of the event, and listing the exhibitors or participants, and shall pay the required fee. Not later than five days after the close of the show, the producer, promoter or sponsor shall adjust the payment based on estimates to cover a license based on actual revenue received or number of exhibitors, whichever requires the greater payment.

- c. The exhibitors in any such public show shall not be required to acquire
  a city business license if the producer, promoter or sponsor has
  obtained a license for the show. In case the producer, promoter or
  sponsor does not acquire a city business license for the show before
  the opening of the show, each exhibitor in the show shall acquire a
  transient merchant's city business license for the show.
- (b) Entertainment events. For purposes of this section, an entertainment event includes any performance by an individual actor or performer or a cast or group of performers on a day certain, or within any seven consecutive calendar days, to which the public is invited and admitted upon payment of a charge for admission and which is designed and produced for the entertainment or enlightenment of those attending. Examples of entertainment events are an athletic game or match, a circus, a concert, a dance, a lecture, a play and a rodeo.
  - (1) The producer, promoter or sponsor of an entertainment event shall acquire a city business license for the event. The license shall be for a period not to exceed seven consecutive days. The fee for the license shall be fixed from time to time by the city council and is set forth in the fee schedule in appendix A to this code.
  - (2) To obtain such a license for such an entertainment event, the producer, promoter or sponsor shall make application to the revenue administrator at least ten days prior to the scheduled event, naming the producer, promoter or sponsor, specifying the dates and location of the event, specifying the purpose of the event, and listing the principal actors, conductors or performers, and shall pay the required fee. No later than five days after the close of the event, the producer, promoter or sponsor shall adjust the payment based on estimates to cover a license based on actual revenue produced by the event.
  - (3) Charitable, educational and religious and other eleemosynary organizations exempt from federal income taxes under Internal Revenue Code section 501(c) are exempt from the requirement that a city business license be obtained for any entertainment event produced, promoted or sponsored by such organization.
  - (4) An annual business license may be issued for entertainment events at one facility based upon annual gross revenues.

(Code 1985, § 6-8-64)

Secs. 8-81—8-85. - Reserved.

(31) ARTICLE IV. - ADVERTISING [31]
Cross reference— Signs, § 50-271 et seq.

<u>DIVISION 1. - GENERALLY</u> <u>DIVISION 2. - DISTRIBUTION OF HANDBILLS</u>

**DIVISION 1. - GENERALLY** 

Secs. 8-86 - 8-90. - Reserved.

**DIVISION 2. - DISTRIBUTION OF HANDBILLS** 

Sec. 8-91. - Definitions.

Sec. 8-92. - Exemptions for mail and newspapers.

Sec. 8-93. - Depositing or distributing on private premises.

Sec. 8-94. - Placing on or in vehicles.

Sec. 8-95. - Removal of handbills.

Secs. 8-96-8-110. - Reserved.

### Sec. 8-91. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statutes or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public, and shall mean and include any other copyrighted material.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Code 1985, § 6-7-11)

Cross reference— Definitions generally, § 1-2.

### Sec. 8-92. - Exemptions for mail and newspapers.

The provisions of this division shall not apply to the distribution of mail by the United States, or to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Code 1985, § 6-7-12)

### Sec. 8-93. - Depositing or distributing on private premises.

- (a) Inhabited premises. No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, in the case of inhabited private premises which are not posted, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such premises if such handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about such premises or sidewalks, streets or other public places, except that mailboxes may not be so used when so prohibited by federal postal law or regulation.
- (b) Posted property. No person shall throw, deposit or distribute any handbill upon any private premises if requested by anyone thereon not to do so or if there is placed on such premises a sign bearing the words "No Trespassing," "No Peddlers or Agents," or any similar notice indicating in any manner that the occupants of such premises do not wish to have their right of privacy disturbed or to have any handbills left upon such premises.
  - (c) Vacant premises. It shall be unlawful for any person to throw or deposit any handbill

in or upon any private premises which is uninhabited or vacant. (Code 1985, §§ 6-7-13—6-7-15)

### Sec. 8-94. - Placing on or in vehicles.

It shall be unlawful for any person to throw or deposit any handbill in or upon any vehicle in such a manner that they might be scattered about by the elements.

(Code 1985, § 6-7-16)

Cross reference— Traffic and vehicles, ch. 42.

### Sec. 8-95. - Removal of handbills.

- (a) Notice to remove. The promoter or person responsible for the handbills, or the owner, agent, manager or occupant of the property, shall be given written notice to remove all handbills within five days, at his own expense, or he shall be in violation of this division.
- (b) Removal by city. If such responsible person cannot be determined or the owner has not complied within the time prescribed by the notice, such handbills, at the discretion of the city, may be removed from the property, and the cost of the removal shall be paid by the owner or person responsible. If the cost is not paid, it shall become a lien upon the real property and shall be collectible in the same manner and with the same priority as municipal taxes.

  (Code 1985, § 6-7-17)

### Secs. 8-96—8-170. - Reserved.

# ARTICLE V. - RESERVED [32]

(32) **Editor's note**— Ord. No. 99-49, adopted Sept. 13, 1999, repealed former art. V of ch. 8 in its entirety. Former Art. V, §§ 8-141—8-146, pertained to bondsmen and derived form the 1985 Code, §§ 6-4-1—6-4-6.

# ARTICLE VI. - ESCORTS, ESCORT BUREAUS AND INTRODUCTORY SERVICES

Sec. 8-171. - Purpose of article.

Sec. 8-172. - Definitions.

Sec. 8-173. - Exemption for nonprofit organizations.

Sec. 8-174. - Licensing of escort bureaus and introductory services.

Sec. 8-175. - Escort permit.

Sec. 8-176. - Notification of changes in information.

Sec. 8-177. - Providing services to persons under 18 years of age.

Sec. 8-178. - Term of licenses and permits; transfer.

Sec. 8-179. - Renewal of licenses and permits.

Sec. 8-180. - License and permit fees.

Sec. 8-181. - Revocation or termination of license or permit.

Secs. 8-182—8-210. - Reserved.

# Sec. 8-171. - Purpose of article.

It is the purpose of this article to regulate escort bureaus and introductory services in order to promote the health, safety and general welfare of the citizens of the city.

(Code 1985, § 6-13-1)

#### Sec. 8-172. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consideration means money or money's worth.

*Escort* means any person who receives financial consideration in an entertainment-oriented commercial relationship for consorting with or escorting another person in any public or private place within the city. Businesses regulated exclusively by state law, babysitting, housekeeping, nursing and limousine services are expressly excluded from this definition.

Escort bureau means any person who offers to furnish an escort for financial consideration.

Introductory service means any person who, for financial consideration, offers to assist any person in meeting any other person for social or personal purposes not connected with or forming part of another lawful business or professional activity.

Person financially interested, as to a corporation, means any person who is an officer or a director or any shareholder holding more than five percent of the shares thereof, and as to a noncorporate business shall include any person who shares in any financial gain attributable to the business as a proprietor or owner or on the basis of a percentage in excess of five percent of gross or ten percent of net revenue.

(Code 1985, § 6-13-2)

**Cross reference**— Definitions generally, § 1-2.

### Sec. 8-173. - Exemption for nonprofit organizations.

An organization which is qualified for exemption from taxation of income is exempt from the terms of this article.

(Code 1985, § 6-13-3)

# Sec. 8-174. - Licensing of escort bureaus and introductory services.

- (a) License required. It shall be unlawful for any person to act in the capacity of or engage in the activity of an escort bureau or an introductory service without a valid license issued pursuant to the provisions of this article. A separate license is required for each location or type of activity licensed pursuant to this article within the city.
- (b) Filing of application. An applicant for an escort bureau license or an introductory service license shall file an application with the city revenue administrator, accompanied by a nonrefundable

### application fee.

- (c) Contents of application. Unless otherwise provided in this article, the application shall contain the name and address of the activity and the following information about the applicant, any person financially interested in the activity to be licensed, any authorized local agents, and any managing employee of the activity to be licensed:
  - (1) The name, including any aliases, business trade names or styles.
  - (2) Present residence and businesses addresses and telephone numbers, as applicable.
  - (3) Each residence and business address for the five-year period immediately preceding the date of filing of the application, and the inclusive dates of each such address.
  - (4) South Carolina driver's license.
  - (5) Valid proof of age and that the applicant is at least 18 years of age.
  - (6) Height, weight, color of eyes and hair and date of birth.
  - (7) Two current two-inch by two-inch photographs.
  - (8) The business, occupation or employment history for the three-year period immediately preceding the date of the filing of the application.
  - (9) Information as to whether such individual or business has ever been refused any similar license or permit or has had any similar license or permit issued to such individual or business in the city or elsewhere revoked or suspended, and the reason therefor.
  - (10) All prior criminal convictions excepting minor traffic offenses.
  - (11) Fingerprints.
  - (12) If the applicant is a corporation, the name of the corporation, set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses and dates of birth of each of its current officers and directors and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the names, residence addresses and dates of birth of each of the partners, including limited partners and profit interest holders. If the applicant is a limited partnership, the applicant shall furnish a copy of the certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged.
  - (13) A description of any service to be provided.
  - (14) The names and residential addresses of all persons employed as escorts.
- (d) Investigation and processing of application. The city revenue administrator shall have a reasonable period of time in which to investigate the application and background of the applicant

and process the application through various city departments.

- (e) Conditions for issuance. The city revenue administrator shall grant the license upon the following circumstances:
  - (1) The required fees have been paid.
  - (2) The application conforms in all respects to the provisions of this article.
  - (3) The applicant has not made a material misrepresentation of fact in the application.
  - (4) Neither the applicant, if an individual, nor any person financially interested, if a corporation, nor any of the partners (including limited partners), nor the holder of any profit interest, nor the manager or other person principally in charge of the operation of the existing or proposed escort bureau or introductory service, nor any individual employed or contracted with to be an escort or to provide escort services, has been convicted of or pleaded nolo contendere to or guilty to any felony or to a misdemeanor involving moral turpitude within five years prior to the issuance of the license.
  - (5) The applicant has not had a license issued by another local authority, similar to the one issued pursuant to the provisions of this article, suspended or revoked for cause within the five-year period immediately preceding the date of the filing of the application.
  - (6) The escort bureau or introductory service complies with all applicable laws of the city, the county and the state.
  - (7) The applicant, manager or other person principally in charge of the operation of the business is at least 18 years of age.
- (f) Denial. The city revenue administrator shall deny the license application if all of the requirements set forth in subsections (e)(1) through (7) of this section have not been met. In the event of denial, the applicant shall be notified by mail of the denial and the reasons therefor. The applicant may appeal such denial pursuant to the provisions of this Code.

(Code 1985, §§ 6-13-4, 6-13-6)

#### Sec. 8-175. - Escort permit.

- (a) Required. It shall be unlawful for any person to act in the capacity of an escort within the city without a valid permit issued pursuant to the provisions of this article.
- (b) *Identification card*. Each escort permit holder shall be issued an identification card. This card must be carried on the person of any individual while such person is engaged in the activity of an escort within the city. Such identification card shall be displayed upon request of any city police officer or other law enforcement official.
- (c) Application.
  - (1) An applicant for a permit shall make application to the city revenue administrator.
  - (2) Each applicant shall furnish all applicable information required by section 8-174
  - (3) The applicant must provide a two-inch by two-inch photograph and be fingerprinted by

the police department.

- (d) Investigation and background check. The city revenue administrator shall cause to be investigated the application and background of the applicant.
- (e) Conditions for issuance. The city revenue administrator shall issue the permit if he finds that all of the requirements of this article have been met, and, in addition, if he finds that the following additional requirements have been met:
  - (1) The applicant has not had any permit or license issued by the city denied, suspended or revoked for cause relating to licensed activity by the city within five years immediately preceding the date of the filing of the application.
  - (2) The applicant is at least 18 years of age.
  - (3) The applicant has not been convicted of or pleaded nolo contendere to or guilty to any felony or to a misdemeanor involving moral turpitude within five years prior to the issuance of a permit.
- (f) Denial. The <u>city</u> revenue administrator shall deny the license application if the requirements of section 8-174 and this section have not been met. In the event of denial, the applicant shall be notified by mail of the denial and the reasons therefor. Denial may be appealed pursuant to the provisions of this code.

(Code 1985, §§ 6-13-7—6-13-9)

# Sec. 8-176. - Notification of changes in information.

Any changes in information required to be submitted by this article must be given to the city revenue administrator within ten days of any such change.

(Code 1985, § 6-13-10)

### Sec. 8-177. - Providing services to persons under 18 years of age.

It shall be unlawful for a permittee or licensee under this article to provide escort or introduction services as described in this article to individuals under 18 years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

(Code 1985, § 6-13-11)

### Sec. 8-178. - Term of licenses and permits; transfer.

The term of a license or permit issued pursuant to the provisions of this article is one year. All licenses or permits issued pursuant to this article are nontransferable.

(Code 1985, § 6-13-5)

#### Sec. 8-179. - Renewal of licenses and permits.

Any license or permit issued pursuant to the provisions of this article which has not been suspended or revoked may be renewed for a period of not to exceed one year on written application to the city revenue administrator made at least 45 days prior to the expiration date of the current valid license or

permit. The renewal application shall be on a form provided by the city revenue administrator and shall contain all of the information required by either section 8-174 or section 8-175(c) as applicable.

(Code 1985, § 6-13-12)

### Sec. 8-180. - License and permit fees.

- (a) Escort bureau or introductory service license. There shall be a nonrefundable application fee for the application required in section 8-174, as fixed from time to time by the city council and as set forth in the fee schedule in appendix A to this code. Upon approval, an annual license may be issued. A nonrefundable renewal fee as set forth in the fee schedule shall accompany each application.
- (b) Escort permit. There shall be a nonrefundable application fee for the application required in section 8-175, as fixed from time to time by the city council and as set forth in the fee schedule in appendix A to this code. Upon approval, an annual permit fee as set forth in the fee schedule shall be assessed. A nonrefundable renewal fee as set forth in the fee schedule shall accompany each application.

(Code 1985, § 6-13-13)

### Sec. 8-181. - Revocation or termination of license or permit.

- (a) Grounds for revocation. Any license or permit issued pursuant to this article shall be revoked upon any one or more of the following grounds:
  - (1) The licensee or permittee, any employee, agent or other person connected or associated with the license or permit as a partner, director, officer, stockholder or manager, or any person financially interested as defined in section 8-172 has violated any provision of this article in conducting an activity licensed under the provisions of this article.
  - (2) The licensee or permittee, any employee, agent or other person connected or associated with the license or permit as a partner, director, officer, stockholder or manager, or any person financially interested as defined in section 8-172 has made a material misrepresentation of fact in the application for any license or permit required in this article.
  - (3) The licensee or permittee, subsequent to the issuance of any license or permit, has been convicted of or entered a plea to a crime which is either a felony or a misdemeanor involving moral turpitude.
  - (4) The licensee or permittee has violated a provision of this article in conducting a licensed activity pursuant to this article.
  - (5) The licensee or permittee is a corporation and is not or is no longer qualified to transact business in the state.
- (b) Notice of revocation. To revoke a license or permit, the city revenue administrator or his agent shall notify the licensee or permittee in writing, mailed to the address shown on the application or otherwise more recently of record, that the license or permit is revoked. The cause for such revocation shall be set forth in the notice.
- (c) Failure to pay fees. Except as otherwise provided in this article, the license or permit shall terminate if the licensee or permittee fails to pay any license or permit fee owed either when due or

by the end of any renewal period.

- (d) Appeals. Appeals from the revocation or termination of a license or permit as provided for in this article may be appealed in accordance with the procedures in section 8-44
- (e) Surrender of revoked license or permit. A revoked license or permit shall be surrendered to the city revenue administrator on demand at the expiration of the appeals process.

(Code 1985, § 6-13-14)

Secs. 8-182-8-210. - Reserved.

# ARTICLE VII. - GOING OUT OF BUSINESS SALES [33]

(33) **Editor's note**— Ord. No. 2010-60, adopted Oct. 25, 2010, amended art. VII in its entirety to read as herein set out. Former art. VII consisted of §§ 8-211—8-223, pertained to the same subject matter and derived from the 1985 Code.

Sec. 8-211. - Definitions.

Sec. 8-212. - Findings.

Sec. 8-213. - Exemptions.

Sec. 8-214. - License required.

Sec. 8-215. - License fee.

Sec. 8-216. - Displaying of license; advertising.

Sec. 8-217. - Expiration of licenses.

Sec. 8-218. - Reopening prohibited.

Sec. 8-219. - Enforcement penalties.

Secs. 8-220-8-250. - Reserved.

#### Sec. 8-211. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means the selling of products, the providing of services, or both, in exchange for payment in cash or other valuable consideration. It also means any person, as defined herein, who is engaged in business.

Going out of business means the permanent or indefinite cessation of business operations.

Going out of business sale means the offering of products or services with the representation by advertising or otherwise that the business is going to cease operations soon. Ordinarily going out of business sales imply that the products and services are being offered at a price significantly below that previously charged or at a price significantly below that ordinarily charged by others. However, it is not necessary that the price of products and services actually be reduced, or advertised as reduced, in order for a going out of business sale to be subject to this article, it being sufficient that the phrase "going out of business," "closing" or like wording be used to indicate that the products or services are offered in anticipation of a cessation of business activity.

*Inspector* means the license inspector of the city.

*License* means a license issued pursuant to this article.

Licensee means any person to whom a license has been issued pursuant to this article.

*Person* means an individual, an organization, a partnership, corporation, or other business entity.

Publish, publishing, advertisements and advertising mean any and all means of conveying to the public notice of a sale, or notice of intention to conduct a sale, whether by word of mouth, newspaper advertisement, magazine advertisement, handbill, circular, pamphlet, written notice, printed notice, printed display, billboard display, poster, radio or television announcement, radio or television program, recordings, Internet, or any and all other means, including oral, written or printed means.

Sale means the sale or an offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, removal, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. The term shall also include any sale advertised, either specifically or in substance, to be a fire sale, smoke and water damage sale, adjustment sale, creditor's sale, trustee's sale, bankrupt sale, save-us-from-bankruptcy sale, insolvent sale, insurance salvage sale, mortgage sale, assignee's sale, adjustor's sale, loss-of-lease sale, receiver's sale, forced-out-of-business sale, or removal sale, and any and all sales advertised in such a manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand the business will cease and be discontinued.

(Ord. No. 2010-60, Exh., 10-25-10)

**Cross reference**— Definitions generally, § 1-2.

### **Sec. 8-212. - Findings.**

Council finds there is a potential harm to the public and bona fide operating businesses if unscrupulous business operatives holdout to the public that they are offering items at a "going out of business sale," which counts both a cessation of business activities and drastically reduced rates. When such sales are prolonged, the potential harm increases. In order to limit the opportunity for misunderstanding and misrepresentation in such sales, council finds it appropriate to require the registration of such sales and to limit their duration.

(Ord. No. 2010-60, Exh., 10-25-10)

#### Sec. 8-213. - Exemptions.

The provisions of this article shall not apply to or affect the following persons:

- (1) Persons acting pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officers, such as sheriffs, bailiffs or marshals.
- (3) Duly licensed auctioneers selling at auction.

(4) Executors, guardians, assignees of insolvent debtors, bankrupts or other persons required by law to sell such property.

(Ord. No. 2010-60, Exh., 10-25-10)

### Sec. 8-214. - License required.

No person shall publish or conduct any sale coming under the provisions of this article without first having:

- (1) A current city of Greenville business license; and
- (2) A going out of business license in the name of the business.

No going out of business license shall be granted to any business operation which has not been in operation for at least six months moths prior to the date of the going out of business license application. In addition, any person managing or overseeing a going out of business sale for another person must also have a city of Greenville business license and a going out of business license.

(Ord. No. 2010-60, Exh., 10-25-10)

#### Sec. 8-215. - License fee.

There is no fee required for a going out of business license.

(Ord. No. 2010-60, Exh., 10-25-10)

### Sec. 8-216. - Displaying of license; advertising.

Upon commencement of any sale, the license issued under this article by the city of Greenville shall be prominently displayed at or near the entrance to the premises. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued, and the wording and scope of such advertisement shall not vary from the wording and scope as indicated in the application.

(Ord. No. 2010-60, Exh., 10-25-10)

### Sec. 8-217. - Expiration of licenses.

- (a) A license issued pursuant to this article shall be for a period not to exceed 60 days from the starting date. The conduct of a going out of business sale after the license has expired is a violation of this article.
- (b) An otherwise valid business license shall also expire at the end of the 60-day period provided for in subsection (a) for any business which has held itself out as ceasing operations by a going out of business sale.
- (c) Notwithstanding the foregoing, the otherwise valid business license of a person who manages or supervises a going out of business sale for another business shall not automatically expire at the conclusion of the 60-day period, but shall continue to be valid until its expiration or cancellation for other reasons.

(Ord. No. 2010-60, Exh., 10-25-10)

### Sec. 8-218. - Reopening prohibited.

No business undertaking to have a going out of business sale shall do so with the intent to reopen elsewhere in the greater Greenville vicinity. No business having conducted a going out of business sale shall reopen at any location in the city with the same principals owning the same type of business, or one which is substantially similar, for a period of six months from the last day of the going out of business sale. Nothing in this section shall preclude a business intending to move from one location to another from advertising a clearance sale or moving sale for purposes of reducing inventory in anticipation of the planned move, provided such sale is not advertised as a going out of business sale. Nothing in this section shall preclude a business owner, manager, or employee from accepting a position with similar business as a manager or employee, so long as the principals of the business are different.

(Ord. No. 2010-60, Exh., 10-25-10)

# Sec. 8-219. - Enforcement penalties.

The city manager or the city manager's designee shall enforce this article. Any violation of this article shall subject the person convicted to the penalties provided in city code section 1-5. Each day, or portion thereof, of a continuing or periodic violation shall be a separate violation, and each violation shall be subject to the prescribed penalties.

(Ord. No. 2010-60, Exh., 10-25-10)

Secs. 8-220—8-250. - Reserved.

# ARTICLE VIII. - OUTDOOR DISPLAYS AND CAFES [34]

(34) Cross reference—Streets, sidewalks and other public places, ch. 36.

Sec. 8-251. - Purpose and applicability of article.

Sec. 8-252. - Definitions.

Sec. 8-253. - Penalty.

Sec. 8-254. - Permit required.

Sec. 8-255. - Application for permit; fee.

Sec. 8-256. - Prohibited acts.

Sec. 8-257. - Form and conditions of permit.

Sec. 8-258. - Denial, suspension, retraction or revocation of permit; removal of property

by city.

Secs. 8-259—8-260. - Reserved.

### Sec. 8-251. - Purpose and applicability of article.

The provisions of this article shall apply to conforming businesses within a nonresidential district for the establishment, operation and maintenance of outdoor displays and dining areas located on sidewalks and public plazas. The purpose of this article is to promote the general economic development and atmosphere of the C-4 district and other areas for the benefit of all businesses and citizens located there, and no rights of individuals or individual businesses are created in this article. The city manager and administrator shall have broad discretion to grant, modify or revoke permits issued pursuant to this article in the interests of improving the public health, safety and welfare.

(Ord. No. 95-14, § 1(6-11-10), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

### Sec. 8-252. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the city personnel designated by the city manager to enforce this article.

Design requirements means the standards adopted with this article that guide design and materials in encroachment areas.

*Encroachment* means stands, tables, umbrellas, chairs, signs, objects related to the business, or other items on the public right-of-way, sidewalk or common area on public property.

Outdoor cafe means the business of providing food and beverage service with chairs, tables on sidewalks and plazas, adjacent to a business licensed to operate as an eating establishment where food and/or other refreshments are served.

Permittee means the recipient of an encroachment permit under the terms and provisions of this article.

*Plaza* means any landscaped outdoor area which is owned or controlled by the city, which is open to the general public, but which is not a sidewalk or street.

Sidewalk means that area of the public right-of-way between the curblines or the lateral lines of a roadway and the adjacent property lines and which is reserved for pedestrian traffic, but not including street crossings.

(Ord. No. 95-14, § 1(6-11-11), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

**Cross reference**— Definitions generally, § 1-2.

#### Sec. 8-253. - Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-5. Each day any violation of this article shall continue shall constitute a separate offense.

(Ord. No. 95-14, § 1(6-11-16(d)), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

# Sec. 8-254. - Permit required.

- (a) It shall be unlawful for any person to create, establish, operate, maintain or otherwise be engaged in the business of running an outdoor cafe, or to place any items upon the sidewalks or public property, in the city unless he shall hold a currently valid permit issued under the terms of this article.
- (b) Permits shall be issued only to validly licensed businesses that wish to set up signs, tables, and

chairs or other objects related to their business on the public sidewalk or plaza.

(Ord. No. 95-14, § 1(6-11-12), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

## Sec. 8-255. - Application for permit; fee.

- (a) Application for the permit required by this article shall be made with the city in a form deemed appropriate by the city manager. Such application shall include but, not be limited to, the following information:
  - (1) Name, home and business address and telephone number of the applicant, and the name and address of the owner of the business if other than the applicant.
  - (2) Name, home address and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's encroachment.
  - (3) A copy of a valid business license to operate a business establishment adjacent to the public property which is the subject of the application.
  - (4) Proof of current liability insurance, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the encroachment permit. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the city. The policy shall be a minimum required amount, or higher if deemed necessary by the city's risk management division.
  - (5) A sketch, to scale, of the proposed location, showing the layout and dimensions of the existing public area and adjacent private property.
  - (6) Proof of any required ABC license, health permits or other state permits for the business involved.
  - (7) Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas or other objects related to the business.
- (b) Not later than 15 days after the filing of a completed application for a temporary encroachment permit, the applicant shall be notified by the administrator of the decision on the issuance or denial of the permit. An annual fee shall be due and payable as fixed from time to time by the city manager. This fee is in addition to the business license fee required for operation within the city. Only new permits shall be prorated on a quarterly basis. No fees shall be charged for encroachments solely for the purpose of beautification, but all other provisions of this article shall apply.
- (c) Application for a permit shall be made with the administrator within 48 hours of written notice for failure to obtain a permit, or as soon thereafter as city offices are open. Where the same owner, occupant or person responsible has been given notice for the same violation at the same location within the previous 180 days, such requirements of written notice may be waived and legal proceedings commenced immediately.

(Ord. No. 95-14, § 1(6-11-13), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

#### Sec. 8-256. - Prohibited acts.

- (a) No merchant, vendor, business or property owner shall:
  - (1) Place any items for sale or other equipment, tables or chairs on any portion of the public property other than that directly in front of his existing place of business without the written consent of adjacent landowners and businesses. In no event shall such items be placed in the landscaped areas or extend beyond the authorized 25 feet from each side of the applicant's business.
  - (2) Block or restrict the pedestrian passageway to less than six feet in width, or block ingress or egress to or from any building. In areas of congested pedestrian activity, the administrator is authorized to require a wider pedestrian path, as circumstances dictate. Also, no items shall be placed so as to block any driveway, crosswalk, bus stop, counter service window or block visibility within an intersection.
  - (3) Sublicense the encroachment area.
  - (4) Place objects around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier, except within a plaza, without the written approval of the administrator.
  - (5) Use tables, chairs, umbrellas and any other objects of such quality, design, materials and workmanship which are not authorized by the administrator. Objects in a plaza must meet design requirements set forth for that public space.
  - (6) Use umbrellas which are not fire-retardant, pressure-treated or manufactured of fire-resistive material if larger than ten feet × ten feet.
  - (7) Fail to secure permission of the landlord where a building has multiple occupants.
  - (8) Utilize the area for commercial activity in any way without the insurance coverage specified.
  - (9) Sound or permit the sounding of any device on the public property which produces a loud noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device.
  - (10) Fail to pick up, remove and dispose of all trash or refuse left by the business or its patrons on the public right-of-way.
  - (11) Store, park or leave any stand or items of merchandise overnight on any street or sidewalk, except for tables and chairs, which may be kept in the permitted area at the permittee's risk.
  - (12) Store, park or leave any vehicle, truck or trailer within the encroachment area.
- (b) The encroachment permit is a temporary license, which may be denied, suspended or revoked for any conduct which is contrary to the provisions of this article or for conduct of the business in such a manner as to create a public nuisance or constitute a danger to the operator's or the public's health, safety or welfare. No property right is created by this article, and the decision of the city manager shall be final.

(Ord. No. 95-14, § 1(6-11-14), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

## Sec. 8-257. - Form and conditions of permit.

The permit required by this article shall be issued on a form deemed suitable by the administrator. In addition to naming the permittee and any other information deemed appropriate by the administrator, the permit shall contain the following conditions:

- (1) Each permit shall be effective for up to three years, from April 1—March 31, subject to annual renewal, unless revoked, suspended or retracted prior to expiration. When a permit is invalidated, the prorated fee for any full quarter year remaining shall be refunded. No fees will be refunded for periods of suspension.
- (2) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.
- (3) The permit may be suspended by the administrator when necessary to clear the public property for public safety for a community or special event authorized by a permit issued by the city.
- (4) The administrator may require the temporary removal of items within the encroachment area when street, sidewalk, common area or utility repairs necessitate such action.
- (5) The permit shall be specifically limited to the area shown on the plat diagram attached to the permit application. As a condition of approval, the city may reduce and otherwise reconfigure the proposed area and the number of requested chairs, tables, and items within the encroachment area.
- (6) The encroachment area covered by the permit shall be maintained in a neat and orderly appearance at all times, and the area shall be cleared of all debris on a periodic basis during the day, and again at the close of each business day.
- (7) No advertising is permitted (except for the posting of prices) on any stand or item, except to identify the name of the product.
- (8) No tables or chairs or any other parts of the business shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area in a manner which causes or threatens to cause injury to any person or damage to public or private properties. No additional outdoor seating authorized under this article shall be used for calculating seating requirements pertaining to location of, application for or issuance of an ABC license for any establishment, or be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any city ordinance or state law.
- (9) The issuance of a permit does not grant or imply vested rights to use of the area by the permittee. The city retains the right to deny the issuance of a permit or the renewal of a permit for any reason.
- (10) Tables, chairs, umbrellas and any other objects provided shall be maintained with a clean and attractive appearance and shall be kept safe and in good repair at all times.

- (11) The city retains the right to suspend the privilege of using glass containers within the encroachment area during major festivals and events and when streets are closed. The use of glass containers will be revoked if an incident jeopardizes the health, safety and welfare of customers or the general public. Any violation of state or local laws will also result in a revocation of this privilege. Repeated offenses may result in revocation or denial of the encroachment permit.
- (12) The serving and consumption of alcoholic beverages on city sidewalks and public property is limited to beer and wine. The serving and consumption of alcoholic beverages in sidewalk encroachments pursuant to this article is limited to patrons seated at tables.
- (13) The city may require the posting or placement of the permit and relevant notices to facilitate the administration and enforcement of this article.

(Ord. No. 95-14, § 1(6-11-15), 3-13-95; Ord. No. 98-21, §§ 1—4, 4-13-98; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

# Sec. 8-258. - Denial, suspension, retraction or revocation of permit; removal of property by city.

- (a) Grounds for denial, suspension, retraction or revocation; removal of property by city. The administrator may deny, retract, revoke or suspend a permit issued under this article at any time for any business authorized in the City if it is found that:
  - (1) Any necessary business or health permit has been suspended, revoked or canceled.
  - (2) The permittee does not have insurance in force which is correct and effective in the minimum amount described in subsection 8-255(a)(4).
  - (3) Changing conditions of pedestrian or vehicular traffic causing congestion or changes of property conditions necessitating removal of the encroachment. Such decision shall be based upon findings of the administrator that the minimum six-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.
  - (4) The permittee has failed to correct violations of this article or conditions of the permit upon receipt of the administrator's notice of the violation delivered in writing to the permittee.
  - (5) The permittee has failed to take positive actions to prohibit violations from reoccurring.
  - (6) The permittee has failed to make modifications upon receipt of the administrator's notice to make such modifications delivered in writing to the permittee.

Tables, chairs and other vestiges of the business may be removed by the department of public works, and a reasonable fee charged for labor, transportation and storage, should the permittee fail to remove the items within 36 hours of receipt of the administrator's final notice to do so for any reason provided for under this article. If the action is taken based on subsection (a)(2) or (3) of this section, the action shall become effective upon the receipt of such notice and the permittee shall have four hours to remove the items.

(b) Notice of denial or revocation. Upon denial or revocation, the administrator shall give notice of

such action to the applicant or the permittee, in writing, stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the permittee.

(c) Appeals. The permittee shall have the right to appeal the decision of the administrator to the city manager within five working days from receipt of notice. An appeal does not stay the denial, suspension, or revocation of the permit. The hearing shall be held within two working days from the date of notice of the request, if the city manager is available or as soon thereafter as the city manager shall be available. The permittee or applicant may be represented by an attorney and may present witnesses, affidavits and any relevant documentary evidence. Formal rules of evidence shall not apply. The city manager shall notify the permittee or applicant of the determination in writing. The city manager shall have the discretion to designate the duties of this section to an experienced hearing officer.

(Ord. No. 95-14, § 1(6-11-16(a)—(c)), 3-13-95; Ord. No. 2009-75, § 1(Exh. A), 9-21-09)

Secs. 8-259—8-260. - Reserved.

## ARTICLE IX. - STREET VENDORS [35]

(35) Cross reference—Streets, sidewalks and other public places, ch. 36.

Sec. 8-261. - Findings.

Sec. 8-262. - Definitions.

Sec. 8-263. - Penalty.

Sec. 8-264. - License required.

Sec. 8-265. - Application for license; insurance.

Sec. 8-266. - Issuance of license; fee; term; conditions.

Sec. 8-267. - Prohibited acts.

Sec. 8-268. - Maximum size of stands.

Sec. 8-269. - Display of licenses.

Sec. 8-270. - Advertising on stands.

Sec. 8-271. - Renewal of license.

Sec. 8-272. - Denial, suspension or revocation of license.

Secs. 8-273—8-280. - Reserved.

#### **Sec. 8-261. - Findings.**

It is found and declared that:

- (1) The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- (2) Vending on the public streets and sidewalks within the central business district and within 300 feet of the central business district promotes the public interest by contributing to an active and attractive pedestrian environment.
- (3) Reasonable regulation of street and sidewalk vending is necessary to protect the public,

health, safety and welfare.

(4) Vending within this area shall be restricted to specific locations and specific items as set forth in this article.

(Code 1985, § 6-12-1)

#### Sec. 8-262. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Central business district means that area so designated in the city zoning ordinance (chapter 19 50) from time to time by the city council.

Permitted merchandise means food, beverages, flowers, cards, pens and souvenirs of the region. No items of clothing other than T-shirts or caps shall be permitted to be sold.

Stand means any table, showcase, bench, rack, pushcart, wagon or any other device or wheeled vehicle which may be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor.

*Vendor* means any person engaged in the selling or offering for sale of food, beverages or permitted merchandise on the public streets or sidewalks, from a stand or motor vehicle or from his person.

(Code 1985, § 6-12-2)

**Cross reference**— Definitions generally, § 1-2.

#### Sec. 8-263. - Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be punished in accordance with section 1-5.

(Code 1985, § 6-12-12)

#### Sec. 8-264. - License required.

It shall be unlawful to sell or offer for sale any food, beverage or permitted merchandise on any street or sidewalk within the city without first obtaining a license therefor, and it shall be unlawful to sell any other items not permitted by this article on the streets or sidewalks in the area of the central business district and within 300 feet of it. The required license shall be either a street vendor's license or an encroachment permit. Sales from vehicles are specifically prohibited in this area.

(Code 1985, § 6-12-3)

## Sec. 8-265. - Application for license; insurance.

The application for a vendor's license shall include the following:

(1) The name and home and business address of the applicant, and the name and address of the owner, if other than the applicant, of the vending business.

- (2) A description of the type of food, beverage or merchandise to be sold.
- (3) The proposed location of the vending business.
- (4) A description and photograph of any stand to be used in the operation of the business.
- (5) Three prints of a full-face photograph, taken not more than 30 days prior to the date of the application, of any person who will sell or offer for sale any food, beverage or merchandise on any street or sidewalk within the city.
- (6) Proof of compliance with state requirements for licensing food vending carts.
- (7) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the license. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the city. The policy shall be in the currently required amount.

(Code 1985, § 6-12-4)

## Sec. 8-266. - Issuance of license; fee; term; conditions.

- (a) Not later than 30 days after the filing of a completed application for a vendor's license, the applicant shall be notified by the revenue administrator of the decision on the issuance or denial of the license. Upon issuance of the license, a fee shall be due and payable as fixed from time to time by the city council and as set forth in the fee schedule in appendix A to this code. This annual fee is in addition to the fee for the business license required for operation within the city.
- (b) No license shall be issued to an applicant where either the applicant or any employee has a conviction within the last ten years for a crime of violence, a crime involving moral turpitude, or a crime involving drug convictions. A license issued pursuant to this section is valid for a period of one year, from January 1 to December 31. The license fee may be prorated on a quarterly basis and the fee shall be paid for any portion of the quarter in which the business is operated. After March 31, three-fourths of the fee shall be due; after June 30, one-half of the fee shall be due; and after September 30, one-fourth of the fee shall be due. No part of the fee may be refunded. A license to vend on the sidewalk shall specify the location from which vending is permitted and shall only be valid for vending at that location. Vending licenses shall be issued only for those locations approved by the city manager, and each location may be restricted to sales of specific items of permitted merchandise. An encroachment permit application shall have priority over an application for a vendor's permit. A food vendor permit shall not be issued for a location in front of an existing restaurant or food business.

(Code 1985, § 6-12-5)

## Sec. 8-267. - Prohibited acts.

#### No vendor shall:

- (1) Leave any stand unattended.
- (2) Store, park or leave any stand overnight on any street or sidewalk, or park any motor

vehicle other than in a lawful parking place in conformance with city and state parking regulations.

- (3) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patrons' use.
- (4) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by him.
- (5) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand from which the business is operated.
- (6) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand where such items have not been described in his application.
- (7) Solicit or conduct business with persons in motor vehicles.
- (8) Sell anything other than that which he is licensed to vend.
- (9) Vend without the insurance coverage specified.
- (10) Sell from a stand on the sidewalk so as to block the sidewalk or restrict the passageway to less than six feet, or so as to block the entranceway to any building, nor shall a license be issued for such activity under any circumstances. Also, no vending shall be permitted to block any driveway, crosswalk or bus stop.
- (11) Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.

(Code 1985, § 6-12-6)

#### Sec. 8-268. - Maximum size of stands.

No vending stand shall exceed four feet in width and six feet in length and six feet in height.

(Code 1985, § 6-12-7)

## Sec. 8-269. - Display of licenses.

All licenses issued to a vendor shall be displayed at all times during the operation of the vending business, to include the vendor's license, business license, and any state inspection or license required.

(Code 1985, § 6-12-8)

#### Sec. 8-270. - Advertising on stands.

No advertising, except the posting of prices, shall be permitted on any stand except to identify the name of the product or the name of the vendor.

(Code 1985, § 6-12-9)

#### Sec. 8-271. - Renewal of license.

All licenses issued under this article are valid for the entire licensing period unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than 30 days before the expiration of the current license.

(Code 1985, § 6-12-10)

## Sec. 8-272. - Denial, suspension or revocation of license.

Any license issued under this article may be denied, suspended or revoked in accordance with sections 8-43, 8-44 and 8-45 for any reason stated therein or for any of the following causes:

- (1) Fraud or misrepresentation contained in the application for the license.
- (2) Fraud or misrepresentation made in the course of carrying on the business of vending.
- (3) Conduct of the licensed business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.
- (4) Conduct which is contrary to the provisions of this article.
- (5) Abandonment of the location by failure to operate a vending operation during at least three-fourths of the normal business days available.

(Code 1985, § 6-12-11)

Secs. 8-273—8-280. - Reserved.

# ARTICLE X. - PEDDLERS, SOLICITORS, MOBILE VENDORS AND TRANSIENT MERCHANTS [36]

(36) Cross reference— Vending or peddling in parks, § 26-45; streets, sidewalks and other public places, ch. 36.

**DIVISION 1. - GENERALLY** 

**DIVISION 2. – PEDDLERS** 

**DIVISION 3. – SOLICTORS** 

DIVISION 4. – MOBILE VENDORS

**DIVISION 5. - TRANSIENT MERCHANTS** 

(36) State Law reference— Control of charitable solicitations, S.C. Code 1976, § 33-55-10 et seq. (Back)

Sec. 8-281. - Solicitation of occupants of vehicles.

Sec. 8-282. - Records of retailers.

Secs. 8-283—8-300. - Reserved.

## Sec. 8-281. - Solicitation of occupants of vehicles.

No solicitation shall be permitted of any occupants of vehicles being operated on any public right-of-way, while such vehicles are either moving, standing or parked.

(Code 1985, § 6-8-1)

#### Sec. 8-282. - Records of retailers.

A transient business or temporary business shall keep records in accordance with S.C. Code 1976, § 40-4-710.

Secs. 8-283—8-300. - Reserved.

## **DIVISION 2. - PEDDLERS** [37]

(37) State Law reference— County licensing of peddlers, S.C. Code 1976, § 40-41-10 et seq.

Subdivision I. - In General Subdivision II. - Permit

#### Subdivision I. - In General

Sec. 8-301. - Definitions.

Sec. 8-302. - Exemption for charitable, educational or religious organizations.

Sec. 8-303. - Entering posted premises.

Sec. 8-304. - Refusing to leave premises.

Sec. 8-305. - Misrepresentation regarding goods or services.

Sec. 8-306. - Hours of operation.

Sec. 8 307. - Mobile vendors.

Secs. 8-3078—8-320. - Reserved.

#### Sec. 8-301. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddler means any individual, whether a resident of the city or not, traveling by foot, wagon,

automobile, motor truck vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, selling, taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Any business operating within the city with one or more salespersons or one or more motor vehicles or other type of conveyance shall acquire a business license for each salesperson. This definition provides for such activity on either a short-term or long-term basis within the city and applies to any such mobile sales of goods or services, whether or not operated out of a permanent business location in the city.

(Code 1985, § 6-8-11)

**Cross reference**— Definitions generally, § 1-2.

## Sec. 8-302. - Exemption for charitable, educational or religious organizations.

The provisions of this division shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations.

(Code 1985, § 6-8-12)

## Sec. 8-303. - Entering posted premises.

It shall be unlawful for any peddler to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

(Code 1985, § 6-8-13)

## Sec. 8-304. - Refusing to leave premises.

Any peddler who enters upon premises owned, leased or rented by another and who refuses to leave such premises after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return shall be deemed guilty of a misdemeanor.

(Code 1985, § 6-8-14)

#### Sec. 8-305. - Misrepresentation regarding goods or services.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the goods, wares, merchandise or services.

(Code 1985, § 6-8-15)

#### Sec. 8-306. - Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

(Code 1985, § 6-8-16)

#### Sec. 8-307. - Mobile vendors.

- (a) This section shall apply to business licenses issued to vend from any vehicle on public rights of way within the city outside the area zoned as CBD central business district. Such vendors must remain mobile and not violate the intent of the zoning regulations by remaining for extended periods of time at one location or in one neighborhood.
- (b) Such licensed vendors shall be subject to the following regulations:
  - (1) No vendor shall remain stationary on a public street or right of way more than 30 minutes in any one location conducting business, after which time such vendor must move at least one block or 500 feet, whichever is greater, and shall not return to the same block or location within the next six hour period. No location shall be used more than twice in any one day.
  - (2) Each vendor must maintain a litter receptacle available for patrons' use. Excessive litter caused by product packaging may result in revocation of this license.
  - (3) The licensee must provide to the city, at time of application for a business license, proof of public liability insurance in the currently required amount. Failure to maintain this insurance will result in immediate revocation of the license.
  - (4) No such vendor shall sound any device which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products. A bell or musical recording may be sounded for a period not to exceed five minutes to announce the arrival of the vehicle at each location.
  - (5) Such unit must be self-contained and not utilize any outside power source.

(Code 1985, § 6-8-17)

Secs. 8-308 307—8-320. - Reserved.

#### Subdivision II. - Permit

Sec. 8-321. - Required.

Sec. 8-322. - Contents of application.

Sec. 8-323. - Presentation of driver's license.

Sec. 8-324. - Application fee.

Sec. 8-325. - Submitting false information.

Sec. 8-326. - Fingerprinting of applicant.

Sec. 8-327. - Permit fee.

Sec. 8-328. - Bond.

Sec. 8-329. - Investigation of applicant.

Sec. 8-330. - Denial.

Sec. 8-331. - Issuance.

Sec. 8-332. - Contents.

Sec. 8-333. - Records.

Sec. 8-334. - Display.

Sec. 8-335. - Term.

Sec. 8-336. - Revocation. Secs. 8-337—8-350. - Reserved.

## Sec. 8-321. - Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first obtaining a permit to do so.

(Code 1985, § 6-8-31)

## Sec. 8-322. - Contents of application.

Applicants for a permit under this subdivision shall file with the revenue administrator a sworn application in writing, in duplicate, on a form to be furnished by the revenue administrator, which shall give the following information:

- (1) The name and a description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or for which orders are taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant taken within 60 days immediately prior to the date of filing the application, which photograph shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (9) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or a deposit of money in advance of final delivery;
- (10) The last five municipalities wherein the applicant has worked before coming to this City; and
- (11) Such other relevant information as may be required by the investigation of the applicant.

(Code 1985, § 6-8-32)

#### Sec. 8-323. - Presentation of driver's license.

At the time of filing his application for a permit required by this subdivision, the applicant shall

present his driver's license, if he has one, to the revenue administrator.

(Code 1985, § 6-8-33)

## Sec. 8-324. - Application fee.

At the time of filing an application for a permit required by this subdivision, a fee as fixed from time to time by the council shall be paid to the revenue administrator to cover the cost of investigating the facts stated therein.

(Code 1985, § 6-8-34)

## Sec. 8-325. - Submitting false information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this subdivision.

(Code 1985, § 6-8-35)

#### Sec. 8-326. - Fingerprinting of applicant.

At the time of making application for a permit required by this subdivision, the applicant shall submit to fingerprinting by the ehief of police department.

(Code 1985, § 6-8-36)

#### Sec. 8-327. - Permit fee.

Before any permit shall be issued under the provisions of this subdivision, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, in accordance with a schedule as fixed from time to time by the council.

(Code 1985, § 6-8-37)

#### Sec. 8-328. - Bond.

- (a) Every applicant for a permit under this subdivision shall file with the city a surety bond running to the city in the currently required amount, with surety acceptable to and approved by the revenue administrator, conditioned that the applicant shall comply fully with all the applicable provisions of this code, the ordinances of the city and state laws regulating and concerning the business of peddling and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler, and further guaranteeing to any citizen of the city doing business with such peddler that the property purchased will be delivered according to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.
- (b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the Fictitious Name Act of the state, such corporation or fictitiously named business may furnish one bond in the currently required amount for any and all of its agents, employees, canvassers or solicitors.

(Code 1985, § 6-8-38)

## Sec. 8-329. - Investigation of applicant.

Upon receipt of an application for a permit required by this subdivision, the original shall be referred to the ehief of police department, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. The ehief of police department shall complete his investigation within one week of receiving the application.

(Code 1985, § 6-8-39)

#### Sec. 8-330. - Denial.

If, as a result of investigation, the character or business responsibility of the applicant for a permit under this subdivision is found to be unsatisfactory, the police department shall endorse on the application his disapproval and his reasons for disapproval, and return the application to the revenue administrator, who shall notify the applicant that his application is disapproved and that no permit shall be issued.

(Code 1985, § 6-8-40)

#### Sec. 8-331. - Issuance.

If, as a result of investigation, the character and business responsibility of the applicant for a permit under this subdivision are found to be satisfactory, the chief of police department shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for, and return the permit along with the application to the revenue administrator, who shall, upon payment of the required fee, deliver the permit to the applicant.

(Code 1985, § 6-8-41)

## Sec. 8-332. - Contents.

Each permit issued under this subdivision shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

(Code 1985, § 6-8-42)

#### Sec. 8-333. - Records.

The revenue administrator shall keep a permanent record of all permits issued under this subdivision.

(Code 1985, § 6-8-43)

#### Sec. 8-334. - Display.

Every peddler having a permit issued under the provisions of this subdivision and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed a misdemeanor.

(Code 1985, § 6-8-44)

#### Sec. 8-335. - Term.

Every permit issued under the provisions of this subdivision shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of 12 months.

(Code 1985, § 6-8-45)

#### Sec. 8-336. - Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the city manager for the violation by the permittee of any applicable provision of this code, state or federal law, or city ordinance, rule or regulation. The notice and hearing provisions of article II of this chapter shall apply.

(Code 1985, § 6-8-46)

Secs. 8-337—8-350. - Reserved.

## **DIVISION 3. SOLICITORS**

Sec. 8-351. – Definitions.
Sec. 8-352. – Permit required
Sec. 8-353. – Entering posted premises.
Sec. 8-354. – Refusing to leave premises.
Secs. 8-355 – 8-360. – Reserved.

#### Sec. 8-351. Definitions.

Solicitors means a person who asks for contributions for charitable organizations as described in Sec. 8-33 "Charitable Purpose".

#### Sec. 8-352. Permit required.

It shall be unlawful for any person to engage in soliciting business, as a solicitor, within the City without first registering with the City Revenue Division.

#### Sec. 8-353. Entering posted premises.

It shall be unlawful for any solicitor to enter upon any private premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or other words to such effect.

#### Sec. 8-354. Refusing to leave premises.

Any solicitor who enters upon premises owned, leased or rented by another and who refuses to leave such premises after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return shall be deemed guilty of a misdemeanor.

#### Sec. 8-355. Hours of operation.

It shall be unlawful for any solicitor to engage in the business of soliciting within the City

between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays.

## Sec. 8-356. Submitting false information.

It shall be unlawful for any person to give any false or misleading information in connection with his their registration application required by this subdivision.

## Sec. 8-357—8-360. Reserved

## **DIVISION 4 MOBILE VENDORS**

(Codifier Note: See former Section 8-307 for Section 8-361)

Sec. 8-361. – Mobile vendors.
Sec. 8-362. – Required.
Sec. 8-363. – Contents of application.
Sec. 8-364. – Presentation of driver's license.
Sec. 8-365. – Application fee.
Sec. 8-366. – Submitting false information.
Sec. 8-367. – Contents.
Sec. 8-368. – Records.
Sec. 8-369. – Display.
Sec. 8-370. – Inspection by inspector.
Sec. 8-371. – Term.
Sec. 8-372. – Revocation.
Secs. 8-373 – 8-375. – Reserve.

## **Sec. 8-307 361.** Mobile vendors.

For the purpose of this section, mobile vendors shall refer to vehicles such as, but not limited to, food trucks and ice cream trucks that move from place to place selling their goods.

- (a) This section shall apply to business licenses issued to vend from any vehicle on public rights-of-way within the city outside the area zoned as CBD central business district. Such vendors must remain mobile and not violate the intent of the zoning regulations by remaining for extended periods of time at one location or in one neighborhood.
  - (b) Such licensed vendors shall be subject to the following regulations:
  - (1) No vendor shall remain stationary on a public street or right-of-way more than 30 minutes in any one location conducting business, after which time such vendor must move at least one block or 500 feet, whichever is greater, and shall not return to the same block or location within the next six-hour period. No location shall be used more than twice in any one day.
  - (2) Each vendor must maintain a litter receptacle available for patrons' use. Excessive litter caused by product packaging may result in revocation of this license.
  - (3) The licensee must provide to the city, at time of application for a business license, proof of public liability insurance in the currently required amount. Failure to

- maintain this insurance will result in immediate revocation of the license.
- (4) No such vendor shall sound any device which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products. A bell or musical recording may be sounded for a period not to exceed five minutes to announce the arrival of the vehicle at each location.
- (5) Such unit must be self-contained and not utilize any outside power source.

(Code 1985, §6-8-17)

## Sec. 8-362. Required.

It shall be unlawful for any person to engage in business as a mobile vendor within the city without first obtaining a permit to do so.

## Sec. 8-363. Contents of application.

Applicants for a permit under this subdivision shall file with the revenue administrator a sworn application in writing on a form to be furnished by the revenue administrator, which shall give the following information:

- (1) The name and a description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) A Two photographs of the applicant taken within 30 days immediately prior to the date of filing the application, photographs shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (5) A background check as to whether or not the applicant has been convicted of any crime or misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (6) Such other relevant information as may be required by the investigation of the applicant.

## Sec. 8-364. Presentation of driver's license.

At the time of filing his application for a permit required by this subdivision, the applicant shall present his driver's license, if he has one, to the revenue administrator.

## Sec. 8-365. Application fee.

At the time of filing an application for a permit required by this subdivision, a fee as fixed from time to time by the city manager shall be paid to the revenue administrator to cover the cost of investigating the facts stated therein.

## Sec. 8-366. Submitting false information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this subdivision.

#### Sec. 8-367. Contents.

Each permit issued under this subdivision shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the

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length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business.

#### **Sec. 8-368. Records.**

The revenue administrator shall keep a permanent record of all permits issued under this subdivision.

## **Sec. 8-369. Display.**

Every mobile vendor having a permit issued under the provisions of this division and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed a misdemeanor.

## Sec. 8-370. Inspection by inspector.

The revenue administrator or his designee may inspect vehicle for safety compliance prior to issuance of business license.

#### Sec. 8-371. Term.

Every permit issued under the provisions of this division shall expire December 31 each year.

#### Sec. 8-372. Revocation.

Any permit issued under the provisions of this division may be revoked by the revenue administrator for the violation by the permittee of any applicable provision of this Code, state or federal law, or City Ordinance, rule or regulation.

## Sec. 8-373--8-375. Reserved.

#### **DIVISION 5. - TRANSIENT MERCHANTS**

Sec. 8-3<del>51-</del>376. - Definitions.

Sec. 8-352. 377- License required; term; fee; exceptions.

Sec. 8-353. 378- Application for license.

Sec. 8-354-379. - Violations.

Secs. 8-3<del>55-</del>380—8-3<del>80-</del>390. - Reserved.

#### Sec. 8-351 376. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Transient merchant means any person who sells or purchases goods, wares, merchandise, or anything of value, and who for himself or as an agent for another, rents, erects, purchases, uses or occupies any room, building or other structure or place, including but not limited to parking lots, shopping centers, sidewalks or any other public area, for the purpose of purchasing, selling or offering for sale anything of value at such location without the intention of establishing a permanent business thereat, and without having acquired a regular city business license. (Code 1985, § 6-8-61(a))

**Cross reference**— Definitions generally, § 1-2.

## Sec. 8-352 377. - License required; term; fee; exceptions.

(a) Each transient merchant shall obtain a City transient merchant's business license prior to

- offering goods, wares, merchandise or anything of value for sale. The fee for the license shall be fixed from time to time by the City Council and is set forth in the fee schedule in appendix A to this Code.
- (b) Every permit issued under the provisions of this division shall be limited to seven consecutive days.
- (bc) The provisions of this section shall not apply to:
  - (1) Any transient merchant who is sponsored by a present local established business when the owner of the local established business is willing to be responsible for the acts of the transient merchant in the same manner as he would for his own business and includes the gross receipts of such transient merchant in his business license information.
  - (2) Solicitations, sales or distributions by charitable, educational or religious organizations and other eleemosynary organizations exempt from federal income tax under Internal Revenue Code section 501(c), or persons representing such organizations.
  - (3) Solicitations, sales or distribution of arts and crafts made by the person displaying them, and solicitations, sales or distribution of arts and crafts, coins, stamps or other similar items collected as a hobby and not as a business for profit, provided such person certifies to and agrees that his tax records may be audited to verify the certification.

(Code 1985, § 6-8-61(b), (c))

## Sec. 8-353 378. - Application for license.

Applicants for a license under this division shall file a written sworn application with the Revenue Administrator showing:

- (1) The name of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city, the local address of such person while engaged in such business, the permanent address of such person, and the capacity in which such person will act (that is, whether as proprietor, agent or otherwise), and the name and address of the person for whose account the business will be carried on, if any.
- (2) The place in the city where the applicant proposes to carry on business, and the length of time during which it is proposed that the business shall be conducted. The hours of operation shall not include the hours from one-half hour before sunset until 9:00 a.m.
- (3) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the city.
- (4) Whether or not the persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor.
- (5) Written permission from the manager, supervisor, owner or other appropriate officer or agent of any place of business or private property on which the transient merchant anticipates doing business. The written permission from such officer or agent shall spell out the times and location of such permitted activity.

(Code 1985, § 6-8-62)

## Sec. 8-354 379. - Violations.

Any violation of the sworn application which the transient merchant fills out shall be a misdemeanor and shall be punishable in the municipal court of the city, and may also result in a revocation of the business license. Violations shall include but not be limited to operating in places other than those

stated on the application, operation on private property without written permission from the appropriate party, operation beyond the time limits stated in such written permission, if any permission shall be had, and operation on any public right-of-way. (Code 1985, § 6-8-63)

Secs. 8-355 380—8-380 390. - Reserved.

## ARTICLE XI. - PRIVATE DETECTIVES [38]

(38) Cross reference— Law enforcement, ch. 20.

Sec. 8-381-391. - Definitions.

Sec. 8-382-392. - License required.

Sec. 8-383-393. - Application for license.

Sec. 8-384 394. - Investigation of applicant.

Sec. 8-385-395. - Issuance or denial of license; appeals.

Sec. 8-386-396. - Display of license; carrying of license certificate.

Sec. 8-387 397. - Transfer of license.

Sec. 8-388-398. - Impersonating peace officer.

Secs. 8-389-399-8-440-410. - Reserved.

#### Sec. 8-381 411. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Private detective business means engaging in the business of or accepting employment to obtain or furnish information with reference to:

- (1) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person.
- (2) The location, disposition or recovery of lost or stolen property.
- (3) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or property.
- (4) The securing of evidence to be used before any civil court board, officer or investigating committee. Any evidence of criminal action or involvement shall reported by the licensed private detective to the chief of the state law enforcement division.

The term "private detective business" shall not include persons employed exclusively and regularly by one employer in connection with the affairs of such employer only, and where there exists an employer-employee relationship, unless the employer is in the detective business.

Private security business means engaging in the business of or accepting employment as a private patrol, watchman or guard service for consideration on a private contractual basis and not as an employee. The term "private security business" shall not include persons employed exclusively and regularly by only one employer in connection with the affairs of such employer only, and where

there exists an employer-employee relationship, unless the employer is in the private security business.

(Code 1985, § 6-5-1)

**Cross reference**— Definitions generally, § 1-2.

## Sec. 8-382 412. - License required.

- (a) No person shall operate as a private detective in the city without first obtaining a license from the revenue administrator.
- (b) Each person acting as a private detective shall make application for a license, although only one business license is to be obtained.

(Code 1985, §§ 6-5-2, 6-5-3)

## Sec. 8-383 413. - Application for license.

- (a) Applications for licenses issued pursuant to this article shall be made upon blank forms prepared and made available by the revenue administrator and shall state:
  - (1) The full name, age, residence, and present and previous occupation of the applicant.
  - (2) Whether the person signing the application is a citizen of the United States or a resident alien.
  - (3) A specific description of the location of the principal place of business of the applicant.
  - (4) The number of years of experience the applicant has had as a private detective or in related fields.
  - (5) The length of time the applicant has been a bona fide resident of the state immediately preceding the filing of the application.
  - (6) Such other information as the Revenue Administrator shall find reasonably necessary to effectuate the general purpose of this article and to make a fair determination of whether the terms of this article have been complied with.
- (b) The application required under this section shall be accompanied by a full set of fingerprints and a photograph of the applicant, and shall also be accompanied by an application fee as fixed from time to time by the city council.

(Code 1985, § 6-5-4)

## Sec. 8-384 414. - Investigation of applicant.

Upon referral of the application for a license under this article to the ehief of police department, he shall within a reasonable time have the applicant duly investigated; provided, however, the ehief police department may accept the state license certificate of the applicant in lieu of investigation if he deemed fit. The ehief police department shall have the prerogative of investigating any employee of the applicant if he it deems proper.

(Code 1985, § 6-5-5)

## Sec. 8-385 415. - Issuance or denial of license; appeals.

(a) The ehief—of police department, if the investigation is favorable, may recommend to the Revenue Administrator that a license be issued to the applicant for a period not to exceed one year. The license shall be renewable annually thereafter if the ehief—of police department certifies to the revenue administrator that the applicant is a proper person to act as a private detective. If the ehief—of police department rejects the application, he shall so inform the revenue administrator, who thereupon shall notify the applicant in writing, within five days after the investigation has been completed, by mailing such notice to the address given by the applicant in his application.

(b) Any applicant aggrieved at the recommendation of the ehief of police department shall have a right to appeal to the city manager by giving notice in writing within five days after receipt of the rejection of his application.

(Code 1985, §§ 6-5-6, 6-5-7)

## Sec. 8-386 416. - Display of license; carrying of license certificate.

The license issued under this article shall be displayed at all times in a conspicuous place in the place of business of the licensee, and the licensee shall carry on his person at all times a certificate of the license to be issued by the ehief of police department.

(Code 1985, § 6-5-8)

#### Sec. 8-387 417. - Transfer of license.

Licenses issued under the provisions of this article shall not be transferable. (Code 1985, § 6-5-9)

## Sec. 8-388 418. - Impersonating peace officer.

No private detective shall at any time impersonate any peace officer of any municipality, county or state.

(Code 1985, § 6-5-10)

#### Secs. 8-389 419—8-440. - Reserved.

(38) **State Law reference**— Private detectives and private security agents, S.C. Code 1976, § 40-17-10 et seq. (Back)

# ARTICLE XII. - SEXUALLY ORIENTED BUSINESSES [39]

- (39) Cross reference— Zoning regulations for sexually oriented businesses, § 50-231 et
- Sec. 8-441. Purpose and intent of article.
- Sec. 8-442. Definitions.
- Sec. 8-443. Permit required; application for permit.
- Sec. 8-444. Issuance or denial of permit.
- Sec. 8-445. Permit fee.
- Sec. 8-446. Expiration and renewal of permit.
- Sec. 8-447. Suspension of permit.
- Sec. 8-448. Revocation of permit.
- Sec. 8-449. Transfer of permit; conduct of business at other than specified location.
- Sec. 8-450. Employee license.
- Sec. 8-451. Exhibition of films or videos in video booths.
- Sec. 8-452. Prohibited conduct.
- Sec. 8-453. Prohibitions regarding minors.
- Sec. 8-454. Hours of operation.
- Sec. 8-455. Advertising; visibility of interior; exterior lighting.
- Sec. 8-456. Inspections.

Sec. 8-457. - Distribution of sexual devices prohibited.

Sec. 8-458. - Exemptions and defenses.

Sec. 8-459. - Enforcement.

Sec. 8-460. - Administrative review of denial, suspension or revocation of license or

permit.

Sec. 8-461—8-480. - Reserved.

## Sec. 8-441. - Purpose and intent of article.

It is the purpose of this article to ensure reasonable protection against the ripple effect upon the community of the commercialization of sex and sexual activity, to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented materials to their intended market. Neither is it the intent of this article to condone or legitimize the distribution of obscene material. (Ord. No. 95-54, § 1, 8-14-95)

## Sec. 8-442. - Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store or adult video store means a commercial establishment which has as a significant or substantial portion of its stock in trade, or derives a significant or substantial portion of its revenues from, or devotes a significant or substantial portion of its interior business or advertising to, the sale or rental, for any form of consideration, of any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides or other visual representations, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (2) Instruments, devices or paraphernalia designed for use in connection with specified sexual activities or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, bottle club or similar commercial

establishment, without regard to whether or not alcoholic beverages are served, which regularly features:

- (1) Persons who appear nude or nearly nude;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a motel, hotel or similar commercial establishment which:

- (1) Offers public accommodations, for any form of consideration, and which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television;
- (2) Offers a sleeping room for rent for a period of time less than ten hours; or
- (3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult motion picture theater means a commercial establishment where motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or near nudity or regularly features live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

Employee means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not the person is paid a salary, wage or other compensation by the operator of the business.

Establishment means and includes any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this article;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any such sexually oriented business.

Nearly nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting belts, strips of cloth, straps or like devices, or a state of dress which leaves exposed a substantial portion of the buttocks so that the effect achieved by such appearance is approximately the same as viewing nudity.

Nude, nudity and state of nudity mean:

- (1) The appearance of the human bare buttocks, anus, male genitals or female genitals, or the areola or nipple of the female breast; or
- (2) A state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

Nude model studio means any place where a person who appears nude or nearly nude or

displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

*Operator* means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

Permitted or licensed premises means any premises that requires a license and/or permit and that is classified as a sexually oriented business.

Permittee and licensee mean a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Public building means any building owned, leased or held by the United States, the state, the county, the city, any special purpose district, a school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental or other public purposes.

Public park or recreation area means public premises which have been designated for park or recreational activities, including but not limited to parks, playgrounds, nature trails, swimming pools, gymnasiums, recreational centers, reservoirs, athletic fields, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas or similar public premises within the city which are under the control, operation or management of the city park and recreation authorities or the equivalent state, county or recreation district authorities.

*Religious institution* means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

Residential district means a geographical area recognized under the city zoning ordinance (chapter 50) as primarily occupied by dwelling units for single-family, two-family, multiple-family or manufactured home parks or subdivisions and campgrounds. It does not include other zoned districts intended primarily for industrial, service, commercial or office use but which permit residential uses.

Residential use means the lawful utilization of any structure as a dwelling unit for single-family, two-family or multiple-family occupation.

School means any public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, technical colleges, junior colleges and universities. The term "school" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Other activities between persons of the opposite sex or persons of the same sex, or both, when one or more of the persons are likely to be touching, fondling or caressing other persons on the genitals, pubic area, buttocks or female breast in a manner that would stimulate sexual arousal.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or nude model studio.

Specified anatomical areas means any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts, regardless of whether such areas of the body are covered or not;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence; or
- (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (4) of this definition.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than 25 percent, as the floor area exists on the effective date of the ordinance from which this article is derived.

Transfer of ownership or control of a sexually oriented business means any of the following:

- (1) The sale, lease or sublease of the business.
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- (3) The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Youth activity center means a boys' club, a girls' club or any other facility which is not a school but which provides entertainment, recreation, crafts, tutorials or other quality of life enhancements for minors, whether a nonprofit facility or otherwise.

(b) Whenever any provision of this article shall prohibit or restrict an activity or condition used in subsection (a) of this section to define the various types of sexually oriented businesses, the fact that such activity or condition is used purely for definitional purposes shall not be construed as a contradiction or inconsistency with the substantive provisions of this article, and the described activity shall be prohibited or restricted as provided by the substantive provisions. (Ord. No. 95-54, § 2, 8-14-95)

**Cross reference**— Definitions generally, § 1-2.

## Sec. 8-443. - Permit required; application for permit.

- (a) Permit required. No person shall establish or operate a sexually oriented business without first obtaining a valid permit issued by the city for the operation of a sexually oriented business, which permit shall be in addition to any other permit or license required by municipal ordinance.
- (b) Filing of application. An application for a permit must be made on a form provided by the city. Any person desiring to operate a sexually oriented business shall file with the city an original and two copies of a sworn permit application on the standard application form supplied by the city.
- (c) Contents of application.
  - (1) The completed application shall contain the following information and shall be accompanied by the following documents:
    - a. If the applicant is an individual, the individual shall state the applicant's legal name and any aliases and submit satisfactory proof that he is at least 18 years of age. If the applicant is a partnership, the partnership shall state its complete name, and the names of all partners, and whether the partnership is general or limited, and shall provide a copy of the partnership agreement, if any. If the applicant is a corporation, the corporation shall

state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the state, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

- b. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he must state the sexually oriented business's fictitious name and submit the required registration documents.
- c. The application shall state whether the applicant or any of the other individuals whose identity is addressed in subsection (c)(1)a of this section has had a previous permit under this article or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked. If so, the applicant shall include the name and location of the sexually oriented business for which the permit was denied, suspended or revoked; the date of the denial, suspension or revocation; and the name of governmental entity by which the permit was denied, suspended or revoked. The application shall also state whether the applicant or any other individual listed pursuant to subsection (c)(1)a of this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this article whose permit has previously been denied, suspended or revoked. If so, the applicant shall include the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- d. The application shall state whether the applicant or any other individual listed pursuant to subsection (c)(1)a of this section holds any other permits and/or licenses under this article or another similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.
- e. The application shall state the location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number, if any.
- f. The application shall state the applicant's mailing addresses and residential addresses.
- g. A recent photograph of the applicant shall be included.
- h. The application shall state the applicant's driver's license number, social security number, and state or federally issued tax identification number.
- i. The applicant shall submit a sketch or diagram showing the configuration of the premises, including a statement of total floorspace occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- j. The applicant shall submit a current certificate and straight-line drawing prepared within 30 days prior to application by a South Carolina registered land surveyor depicting the property lines and the structures on premises located within 1,000 feet of the property to be certified. The applicant shall by separate document identify all existing or established uses within 1,000 feet of the property line of the premises for which a permit is sought. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
- (2) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a

business, each individual having a ten percent or greater interest in the corporation must sign as applicant the application for a permit.

- (3) If a person wishes to operate a sexually oriented business which shall exhibit on the premises videocassettes or other video reproductions which depict specified sexual activities or specified anatomical areas, then the person shall comply with the application requirements stated at section 8-451
- (d) Notification of changes in information. Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section if the information changes in any way from what is stated on the application. The failure to comply with this continuing duty within 30 days from the date of such change by supplementing the application on file with the city shall be grounds for suspension of a permit.
- (e) Incomplete applications. If the city, prior to issuance or denial of the permit, determines or learns that the applicant has improperly completed the application for a proposed sexually oriented business, the city shall promptly notify the applicant of such fact and allow the applicant ten days to complete properly the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to complete properly the application. If the city, after issuance, determines that information requested was omitted or otherwise not properly provided, then such deficiency shall be a basis for suspension or revocation, in addition to penalties and remedies otherwise provided by law.
- (f) Conditions for issuance; inspection of premises. The applicant must be qualified according to the provisions of this article and the premises must, after inspection, be found to be in compliance with the law by all state, county or municipal agencies and special purpose districts having jurisdiction, including health, fire and building departments. The applicant shall be responsible for arranging such inspections in accord with otherwise applicable procedures.
- (g) Application fee. The applicant shall be required to pay a nonrefundable application fee at the time of an application under this section. The application fee shall be in addition to the annual permit fee otherwise required. The application fee shall be fixed from time to time by the city council and is set forth in the fee schedule in appendix A to this code.
- (h) Persons holding other licenses not exempt from permit. The fact that a person possesses other types of state, county or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit.
- (i) Consent to regulation. By applying for a permit under this section, the applicant shall be deemed to have consented to the provisions of this article and to the exercise by the city's police department and all other city agencies charged with enforcing the laws, ordinances and codes applicable in the city of their respective responsibilities under this article.
- (j) List of employees. The applicant shall be required to provide the city with the names of any and all employees who are required to be licensed pursuant to section 8-450, and the requirement shall be a continuing requirement even after a permit is granted or renewed. (Ord. No. 95-54, § 3, 8-14-95)

## Sec. 8-444. - Issuance or denial of permit.

- (a) The city shall grant or deny an application for a permit under this article within 30 days from the date of its filing or the date of proper completion, if later than filing. Upon the expiration of the 30th day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the city notifies the applicant of a denial of the application and states the reasons for that denial.
- (b) The city shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless it finds one or more of the following to be true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or other person residing in the applicant's household or the applicant's spouse is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed in relation to a sexually oriented business.
- (3) An applicant has failed to provide information required by this article for the issuance of the permit or has falsely answered a question or request for information on the application form.
- (4) An applicant is residing with a person who has been denied a permit by the city to operate a sexually oriented business within the preceding 12 months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding 12 months.
- (5) The premises to be used for the sexually oriented business have not been approved by the health department, the fire department and the building official or other governmental agency having jurisdiction over the premises as being in compliance with applicable laws and ordinances.
- (6) The application or permit fees required by this article have not been paid.
- (7) An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this article.
- (8) The applicant has a permit under this article which has been suspended or revoked.
- (9) An applicant has been convicted of a specified criminal act for which:
  - a. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of an offense with a potential jail or prison term of one year or less, for the specified criminal acts, which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
  - b. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of an offense with a potential prison term of more than one year, for the specified criminal acts, which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
  - c. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, of the most recent conviction of two or more offenses with potential jail or prison terms of one year or less, for specified criminal acts, which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations, for offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of the specified criminal acts described in this subsection (9) may qualify for a sexually oriented business permit only when the time period required in this subsection has elapsed.

- (10) An applicant operating a sexually oriented business in the city, at the time of application for another permit, or a renewal, knowingly has in his employment an unlicensed employee who is subject to the licensing provisions of section 8-450
- (c) The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a

conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

- (d) If the city denies the application, it shall notify the applicant of the denial and state the reasons for the denial.
- (e) If a person applies for a permit for a particular location within a period of 12 months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied. (Ord. No. 95-54, § 4, 8-14-95)

#### Sec. 8-445. - Permit fee.

No sexually oriented business permit shall be issued without the owner or operator having first paid the annual sexually oriented business permit fee, nor shall any permit be renewed without the same fee first having been paid. The sexually oriented business permit fee shall be in addition to any other fee or tax which may be due in connection with the operation of a business within the city. The sexually oriented business permit fee shall be fixed from time to time by the city council and is set forth in the fee schedule in appendix A to this code.

(Ord. No. 95-54, § 5, 8-14-95)

## Sec. 8-446. - Expiration and renewal of permit.

- (a) Each permit issued under this article shall expire one year from the date of issuance and may be renewed only by application as provided in section 8-443; provided that, for renewals, filing of the original survey shall be sufficient provided the applicant certifies in writing that there has been no material change in the circumstances represented by the survey. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date the expiration of the permit will not be affected.
- (b) When the city denies renewal of the permit, the applicant shall not be issued a permit for the same location under this article for one year from the date of denial; provided that if, subsequent to denial, the city finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least 90 days have elapsed since the date denial became final. (Ord. No. 95-54, § 6, 8-14-95)

## Sec. 8-447. - Suspension of permit.

- (a) The city shall suspend a permit issued under this article for a period not to exceed 30 days if it determines that a permittee, or an employee of a permittee, has:
  - (1) Violated or is not in compliance with any section of this article;
  - (2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
  - (3) Refused to allow an inspection of sexually oriented business premises as authorized by this article;
  - (4) Knowingly permitted gambling by any person on the sexually oriented business premises;
  - (5) Operated the sexually oriented business in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, such determination being based on investigation by the division, department or agency charged with enforcing such rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the city shall forthwith suspend the permit and

shall notify the permittee of the suspension. In the event of an emergency or other situation which is potentially life threatening, the time period provided in this subsection shall not apply and the city may take such immediate action as shall otherwise be appropriate;

- (6) Engaged in permit transfer contrary to section 8-449. If the city suspends a permit on the grounds that a permittee engaged in a permit transfer contrary to section 8-449, the city shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this article has been satisfied;
- (7) Operated the sexually oriented business in violation of the hours of operation provided in section 8-454; or
- (8) Knowingly employs a person who does not have a valid license as required in section 8-450 or knowingly permitted any patron, customer or member of the public to appear nude or nearly nude on the premises.

Such determination may be based upon information obtained by the enforcement officer from other inspection or enforcement officers of the city.

(b) If, at the end of the period of suspension, the violation has not been corrected, then the suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

(Ord. No. 95-54, § 7, 8-14-95)

#### Sec. 8-448. - Revocation of permit.

- (a) The city shall revoke a permit if a cause of suspension listed in section 8-447 occurs and the permit has been suspended within the preceding 12 months.
- (b) The city shall revoke a permit if it determines that:
  - (1) A permittee gave false or misleading information in the material submitted during the application process when the permittee knew or should have known the correct information;
  - (2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises;
  - (3) A permittee or an employee has knowingly allowed prostitution or solicitation for prostitution on the premises;
  - (4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
  - (5) A permittee has been convicted of a specified criminal act for which the time period required in section 8-444(b)(9) has not elapsed;
  - (6) On two or more occasions within a 12-month period, a person committed an offense, occurring in or on the permitted premises, constituting a specified act for which a conviction has been obtained, and the person was an employee of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit;
  - (7) A permittee is delinquent by more than 30 days in payment to the city, county or state for any taxes or fees due;
  - (8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or any other specified sexual activities to occur in or on the permitted premises;
  - (9) A permittee has been operating more than one sexually oriented business under a single roof, except as may be addressed for preexisting nonconforming uses under provisions of the city zoning ordinance (chapter 50) relating to the sexually oriented businesses; or
  - (10) A permittee knowingly permitted an owner, operator, employee or agent to appear nude or nearly nude on the premises in the conduct of such person's duties.

(c) When the city revokes a permit, the revocation shall continue for one year and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation becomes effective. If, subsequent to revocation, the city finds that the basis for revocation has been corrected, the applicant, for good cause, may be granted a permit if at least 90 days have elapsed since the date revocation became effective.

## Sec. 8-449. - Transfer of permit; conduct of business at other than specified location.

- (a) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the permit, nor shall a permit be granted for any place other than that identified in the application.
- (b) A permittee shall not transfer his permit to another.
- (c) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and, in addition to any other penalties, the permit shall be deemed revoked as of the date of the attempted transfer.

(Ord. No. 95-54, § 9, 8-14-95)

(Ord. No. 95-54, § 8, 8-14-95)

#### Sec. 8-450. - Employee license.

- (a) Required; fee. Each individual to be employed in a sexually oriented business who engages in the services rendered by a nude model studio, a sexual encounter establishment, or a live performer or entertainer shall be required to obtain a sexually oriented business employee license. Each applicant shall pay a fee as fixed from time to time by the city council and as set forth in the fee schedule in appendix A to this code. The fee is to cover reasonable administrative costs of the licensing application process.
- (b) Application. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit, on a form to be provided by the city, the following information:
  - (1) The applicant's name or any other names, including stage names or aliases used by the individual.
  - (2) Age, date and place of birth.
  - (3) Height, weight, hair and eye color.
  - (4) Present residence address and telephone number.
  - (5) Present business address and telephone number.
  - (6) State driver's license or identification number.
  - (7) Social security number.
  - (8) Acceptable written proof that the individual is at least 18 years of age.
  - (9) Attached to the application form, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  - (10) A statement detailing the license or permit history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant, previously operating or seeking to operate in this city or any other city, county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, the applicant shall state the date and the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
  - (11) Whether the applicant has been convicted of a specified criminal act as defined in section

- 8-444(b)(9). This information shall include the date, place and nature of each conviction or plea of nolo contendere and identify the convicting jurisdiction.
- (c) Investigation; issuance. The city shall refer the sexually oriented business employee license application to the police department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten days from the date the completed application is filed. After the investigation, the city shall issue a license unless the information gathered establishes that one or more of the following findings is true:
  - (1) The applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the police department or other department of the city.
  - (2) The applicant is under 18 years of age.
  - (3) The applicant has been convicted of a specified criminal act as defined in section 8-444(b)(9) and the prescribed time period has not yet passed the from date of conviction or release from confinement, whichever is later.
  - (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this article.
  - (5) The applicant has had a sexually oriented business employee license revoked by the city within two years of the date of the current application.

#### (d) Renewal.

- (1) A license granted pursuant to this section shall be subject to annual renewal by the city upon the written application of the applicant and a finding by the city in accord with the procedures of this article that the applicant has not been convicted of any specified criminal act as defined in section 8-444(b)(9) or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
- (2) The renewal of the license shall be subject to payment of a fee as set by a resolution of the city council.

(Ord. No. 95-54, § 10, 8-14-95)

#### Sec. 8-451. - Exhibition of films or videos in video booths.

- (a) A person who operates or causes to be operated a video arcade or other sexually oriented business, other than a sexually oriented motel, which exhibits on the premises, in a viewing room of less than 150 square feet of floorspace, a film, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
  - (1) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area, with no dimension greater than eight feet. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city may waive the requirement for this diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration of the premises as shown may be made without the prior approval of the city.
- (4) It is the duty of the owners, operators and permittees to ensure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners, operators and permittees, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (a)(5) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.
- (7) No viewing room may be occupied by more than one person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access with an illumination of not less than 1.0 footcandle as measured at the floor level.
- (9) It shall be the duty of the owners, operators and permittees, and it shall also be the duty of any agents and employees present on the premises, to ensure that the illumination described in subsection (a)(8) of this section is maintained at all times that any patron is present on the premises.
- (b) A person having a duty under subsections (a)(1) through (9) of this section commits a violation of this Code if he knowingly fails to fulfill that duty. (Ord. No. 95-54, § 11, 8-14-95)

#### Sec. 8-452. - Prohibited conduct.

- (a) No person shall perform or permit to be performed at a sexually oriented business a dance or other physical performance for entertainment in which the performer is nude or nearly nude, nor shall any person in the performance of his duties or activities as operator or employee of a sexually oriented business carry out such duties nude or nearly nude.
- (b) Any person, otherwise appropriately attired in accord with this code, who performs a dance or other physical performance for entertainment at a sexually oriented business establishment shall at all times during the performance remain at least eight feet from any patron, invitee or member of the public. No operator of a sexually oriented business shall permit to be performed such dance or other physical performance at a distance less than eight feet from any patron, invitee or member of the public, or knowingly encourage, permit or acquiesce in any patron, invitee or member of the public approaching closer than eight feet to the performer during the performance.
- (c) No patron of a sexually oriented business shall knowingly approach closer than eight feet to a dancer or person providing any other physical performance for entertainment while the performance

is being presented, regardless of the amount of clothing worn by the patron or dancer or other performer.

- (d) All operators of sexually oriented businesses at which dances or other physical performances for entertainment are provided shall post, in a conspicuous place near the performance area, a sign using at least three-inch lettering which states "CITY ORDINANCE: PATRONS MUST REMAIN AT LEAST EIGHT (8") FEET FROM PERFORMERS DURING PERFORMANCE, PENALTY: \$500.00 FINE, THIRTY (30) DAYS IN JAIL, OR BOTH."
- (e) Nothing in this section shall be deemed to prohibit nudity or near nudity incidental to a theatrical performance or presentation which is part of a business operation or a not-for-profit operation, which is not otherwise subject to a defined activity qualifying as a sexually oriented business under the provisions of this code.

(Ord. No. 95-54, § 12, 8-14-95)

## Sec. 8-453. - Prohibitions regarding minors.

No person shall operate or cause to be operated a sexually oriented business and, knowingly or with reasonable cause to know, permit, suffer or allow:

- (1) Admittance of a person under 18 years of age to the business premises unless accompanied by a parent or guardian;
- (2) A person under 18 years of age to remain at the business premises unless accompanied by a parent or guardian at all times;
- (3) A person under 18 years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or
- (4) A person who is under 18 years of age to work at the business premises as an employee. (Ord. No. 95-54, § 13, 8-14-95)

## Sec. 8-454. - Hours of operation.

No sexually oriented business shall open to do business before 10:00 a.m. Monday through Saturday or remain open after 12:00 midnight Monday through Saturday. No sexually oriented business shall open for business on a Sunday. This section shall not apply to an adult motel, or to a business whose hours of operation are regulated by state law.

(Ord. No. 95-54, § 14, 8-14-95)

#### Sec. 8-455. - Advertising; visibility of interior; exterior lighting.

- (a) No person shall operate or cause to be operated a sexually oriented business and advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.
- (b) No person shall operate or cause to be operated a sexually oriented business and display or otherwise exhibit the materials and/or performances at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.
- (c) No owner, operator, permittee or employee of a sexually oriented business shall allow any portion of the interior premises to be visible from outside the premises.
- (d) All off-street parking areas and premises entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one footcandle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(Ord. No. 95-54, § 15, 8-14-95)

#### Sec. 8-456. - Inspections.

- (a) An applicant or permittee under this article shall permit representatives of the police department, health department, fire department, building codes department, zoning department, or other city departments or agencies or such county and state agencies as may have jurisdiction to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.
- (b) Any person who operates a sexually oriented business, regardless of whether or not a permit has been issued for the business under this article, or his agent or employee commits a violation of this Code if he refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business.

(Ord. No. 95-54, § 16, 8-14-95)

#### Sec. 8-457. - Distribution of sexual devices prohibited.

- (a) It is unlawful for anyone to distribute anywhere within the city for commercial purposes, including free distribution for advertising, sale or offering for sale, any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- (b) Such devices, instruments or paraphernalia include but are not limited to phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, nonmedical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sadomasochistic abuse.

(Ord. No. 95-54, § 17, 8-14-95)

#### Sec. 8-458. - Exemptions and defenses.

- (a) A person appearing in a state of nudity or nearly nude and doing so in a modeling class is exempt from the provisions of this article and any other municipal ordinance prohibiting appearance in the nude, provided that the modeling class is:
  - (1) At a proprietary school licensed by the state, or a college, junior college or university supported entirely or partly by taxation;
  - (2) At a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
  - (3) In a structure:
    - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
    - b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
    - c. Where no more than one nude model is on the premises at any one time.
- (b) It is a defense to prosecution for a violation of this article that an employee of a sexually oriented business, regardless of whether or not it is permitted under this article, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees. (Ord. No. 95-54, § 18, 8-14-95)

#### Sec. 8-459. - Enforcement.

(a) The city manager shall be responsible for enforcement of this article by and through such

officers and employees as he may designate from time to time to act on behalf of the city for purposes of application review, permit suspension or revocation, inspection, and any other act or assessment by the city provided for in this article.

(b) The city personnel charged with enforcement of this article and related state and local laws and codes shall be immune from prosecution for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this article. (Ord. No. 95-54, § 19, 8-14-95)

#### Sec. 8-460. - Administrative review of denial, suspension or revocation of license or permit.

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee under this article may seek prompt administrative review of such administrative action by a written notice of appeal to the city manager within ten calendar days of the date the applicant or permittee receives written notice of the denial, suspension or revocation. The city manager may hear the appeal himself or, in his discretion, designate a special hearing officer. The hearing shall be held with reasonable promptness, but in no event more than 60 days after receipt of the written notice of appeal, absent extenuating circumstances, except by consent of both the city and the applicant or permittee.

(Ord. No. 95-54, § 20, 8-14-95)

Sec. 8-461—8-480. - Reserved.

#### **ARTICLE XIII. – Insurance Companies Business License Tax**

(Codifier Note: Article recently approved by Ordinance Number 2012-\_\_\_ by City Council. Section numbers to be provided by codifier.)

(a) Insurance Companies: Except as to fire insurance, "gross premiums" means gross premiums written for policies for property or a risk located within the municipality. In addition, "gross premiums" shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company's office located in the municipality, (2) the insurance company's employee conducting business within the municipality, or (3) the office of the insurance company's licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.

As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include all business conducted in the prior calendar year.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums, or deposit.

Declining rates shall not apply.

Life, Health and Accident	0.75% of Gross Premiums
Fire and Casualty	
Title Insurance	

- (b) Notwithstanding any other provisions of this ordinance, license taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5 percent of the tax due per month, or portion thereof, after the due date until paid.
- (c) Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.
- (d) Pursuant to S.C. Code Ann. §§ 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax. The Association is authorized to collect current and delinquent license taxes from insurance companies as authorized by S.C. Code § 5-7-300. Administration of the municipal broker's premium tax in the form attached hereto as Exhibit A is approved, and the Mayor is authorized to execute it.

# ARTICLE XIV. - TELECOMMUNICATIONS BUSINESS LICENSE TAX [40]

<sup>(40)</sup> Editor's note— The provisions of Ord. No. 99-52, §§ 1—5, adopted Sept. 30, 1999, have included herein as art. XIII, §§ 8-481—8-485, of ch. 8 at the discretion of the editor in consultation with the city attorney.

Sec. 8-481. - Established; schedule.

Sec. 8-482. - Rate; due date.

Sec. 8-483. - Exemptions.

Sec. 8-484. - Applicability.

Sec. 8-485. - Agreements.

Secs. 8-486—8-500. - Reserved.

#### Sec. 8-481. - Established; schedule.

- (a) Notwithstanding any other provisions of the business license ordinance code, the business license tax for "retail telecommunications services", as defined in S. C. Code § 58-9-2200, shall be at the maximum rate authorized by S. C. Code § 58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by state law as in effect on February 1, 2005. Declining rates shall not apply.
- (b) In conformity with S.C. Code § 58-9-2220, the business license tax for "retail telecommunications services" shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not

been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a 12-month projected income.

(Ord. No. 99-52, § 1, 9-30-99; Ord. No. 2004-80, § 1, 12-6-04)

#### Sec. 8-482. - Rate; due date.

- (a) For the year 2005, the business license tax for "retail telecommunications services" shall be due on February 1, 2005, and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for "retail telecommunications services" shall be due on January 1 of each year and payable by January 31 of that year, without penalty.
- (b) The delinquent penalty shall be five percent of the tax due for each month, or portion thereof, after the due date until paid.

(Ord. No. 99-52, § 2, 9-30-99; Ord. No. 2004-80, § 2, 12-6-04)

# Sec. 8-483. - Exemptions.

Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

(Ord. No. 99-52, § 3, 9-30-99; Ord. No. 2004-80, § 3, 12-6-04)

# Sec. 8-484. - Applicability.

- (a) Nothing in this article shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
- (b) All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this article. (Ord. No. 99-52, § 4, 9-30-99; Ord. No. 2004-80, § 4, 12-6-04)

#### Sec. 8-485. - Agreements.

As authorized by S. C. Code § 5-7-300, the agreement with the Municipal Association of South Carolina for collection of current and delinquent license taxes from telecommunications companies pursuant to S. C. Code § 58-9-2200 shall continue in effect. Notwithstanding the provisions of the agreement, for the year 2005, the Municipal Association of South Carolina is authorized to collect current and delinquent license taxes, in conformity with the due date and delinquent date for 2005 as set out in this article and is further authorized, for the year 2005, to disburse business license taxes collected, less the service charge agreed to, to this municipality on or before April 1, 2005, and thereafter as remaining collections permit.

(Ord. No. 99-52, § 5, 9-30-99; Ord. No. 2004-80, § 5, 12-6-04)

#### Secs. 8-486—8-500. - Reserved.

## ARTICLE XV. - CABLE FRANCHISE REGULATIONS AND REQUIREMENTS

**DIVISION 1. - GENERALLY** 

DIVISION 2. - APPLICATIONS FOR GRANT, RENEWAL, MODIFICATION OR TRANSFER OF FRANCHISES

DIVISION 3. - GENERAL CABLE FRANCHISE PROVISIONS
DIVISION 4. - MISCELLANEOUS PROVISIONS
ATTACHMENT A. - CUSTOMER SERVICE AND CONSUMER PROTECTION
ATTACHMENT B. - GUARANTEE

#### **DIVISION 1. - GENERALLY**

Sec. 8-501. - Definitions.

Sec. 8-502. - General provisions. Secs. 8-503—8-530. - Reserved.

#### Sec. 8-501. - Definitions.

Whenever used in this article, the following words and terms, as well as their singulars, plurals, and possessives, shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive.

Access channel: Any channel on a cable system set aside by the franchisee for non-commercial public, local educational, and/or local governmental use and provided as part of the basic tier of service.

Affiliate: An individual, corporation, association, or partnership who controls, is controlled by, or is under common control with a franchisee.

Applicant: Any person submitting an application within the meaning of this article.

Application: Any proposal, submission or request to (1) construct and operate a cable system within the city; (2) transfer a franchise or control of the franchisee; (3) renew a franchise; (4) modify a franchise; or (5) seek any other relief from the city pursuant to this article or a franchise agreement. An application includes an applicant's initial proposal, submission or request, as well as any and all subsequent amendments or supplements to the proposal and relevant correspondence.

Cable Act: The Cable Communications Policy Act of 1984, Public Law No. 98-549, as amended by the Cable System Consumer Protection and Competition Act of 1992, Public Law No. 102-385, and the Telecommunications Act of 1996, Public Law No. 104-104, codified at 47 U.S.C. § 521 et seq., and as hereafter may be amended.

Cable service or service: The one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system: A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable services which includes video programming and which is provided to multiple subscribers within the city. Such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves subscribers without using any right-of-way; (3) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility will be considered a cable system only to the extent it is used in the transmission of video programming directly to subscribers; (4) any facilities of any electric utility used solely for operating its electric utility systems; or (5) an open video system that complies with the requirements of federal law.

Cable franchise: A franchise granted subject to the provisions of this article to a franchisee authorizing the use and occupancy of rights-of-way for the provision of cable service.

City: The City of Greenville, South Carolina, a home-rule municipal corporation.

City requirements: All laws, rules, regulations, policies and directives of general application of the city, in effect at present or to be adopted in the future by the city council.

Control of a franchise, franchisee or applicant: The legal or practical ability to exert control over the affairs of a franchisee or applicant, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lesser ownership interest, or in any other manner.

*Emergency:* A reasonably unforeseen situation presenting an imminent hazard to personal or public health or safety or to property, as determined by the city manager or his designee.

Facilities: A system, owned by a franchisee (including facilities on which a franchisee has leased capacity), of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, any associated converters, and all equipment used to provide cable service within the city as described herein, including property necessary to maintain interoperability as defined by state and federal law or regulations.

FCC: The Federal Communications Commission or its successor agency.

Franchise: A non-exclusive authorization granted in accordance with this article and exercised in accordance with a franchise agreement to install cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the construction, operation, and maintenance of a cable system along the rights-of-way within the city to provide cable services.

Franchise agreement: A contract entered into in accordance with the provisions of this article between the city and a franchisee that sets forth, subject to this article, the terms and conditions under which a franchise will be exercised.

*Franchisee*: A person granted a franchise by the city under this article, and its lawful successor, transferee or assignee.

Franchisee representative: Employees or agents of franchisee who have the authority and capability while speaking with a subscriber to address customer service issues such as billing questions, adjusting bills, and scheduling service and installation calls.

Gross revenues: All cash, credits, property, or other consideration of any kind or nature received directly or indirectly by the franchisee, its subsidiaries, parent or any subsidiary of its parent, arising from, attributable to, or in any way derived from the sale or exchange of cable services by the franchisee within the city. Gross revenues includes, but is not limited to, monthly fees charged to subscribers for basic service; monthly fees charged to subscribers for any optional. premium or per-channel or per-program service; monthly fees charged to subscribers for any tier of service other than basic service; installation, disconnection, reconnection and change-in-service fees: leased channel fees; fees, payments or other consideration received from programmers for carriage of programming on the system; converter fees, rentals or sales; studio rental, production equipment and personnel fees (but not for non-cable purposes); advertising revenues; revenues derived by the franchisee from home shopping channel sales to city residents; and the sales, exchange or cablecast by the franchisee of any programming developed on or for access channels or institutional users. Revenues received by franchisee from the delivery of Internet access service over its cable system shall be included in gross revenues until such time as a final non-appealable determination by the FCC or a court with jurisdiction over the city determines that franchise fees are not assessable on such revenues. Advertising and home shopping revenues shall be allocated on a pro-rata basis based on the proportion of total subscribers on franchisee's cable system represented by subscribers residing within the city. Gross revenues shall be the basis for computing the franchise fee imposed pursuant to section 8-553 hereof. Gross revenues shall not include any taxes on services furnished by the franchisee (other than the franchise fee) which are imposed on any subscriber or user by the state, county, city or other governmental unit and collected by the franchisee on behalf of said governmental unit.

Institutional network: A voice, data, and/or video communications system constructed,

operated and/or maintained by the franchisee within the city, the transmissions on which are generally available only to, and intended to be sent and received by, persons other than cable subscribers generally. Such a system may be integrated into the cable system provided by franchisee, and is not necessarily a physically separate system.

*Person:* Any individual, corporation, partnership, association, joint venture, organization or legal entity of any kind, and any lawful trustee, successor, assignee, transferee or personal representative thereof.

*Public nuisance:* A condition dangerous to the health, safety, peace, comfort or convenience of the general public.

*Right-of-way:* All present and future public streets, avenues, highways, alleys, sidewalks, boulevards, drives, tunnels, easements, bridges, and other such similar passageways, thoroughfares, and public ways.

Transfer of a franchise: Any transaction in which (1) ownership or other interest in a franchisee or its cable system is transferred from one person or group of persons to another person or group of persons so that control of the franchisee is transferred; or (2) the rights and/or obligations held by the franchisee under a franchise are transferred or assigned to another person or group of persons. A transfer is pro forma when it involves no substantial change in the ultimate ownership or control of the franchisee; however, the duty to establish the pro forma characteristics of a transaction rests with the franchisee.

Two-way capability: The incorporation into a cable system of all appropriate design and engineering characteristics and features so that two-way transmission, including addressability, over the system can be implemented and activated.

(Ord. No. 2001-74, § 1.01, 9-17-01)

#### Sec. 8-502. - General provisions.

- (a) A franchise authorizes the use of rights-of-way for installing facilities to operate a cable system within the entire area or a specified area of the city, but does not expressly or impliedly authorize the franchisee to provide service to, install cable, wires, lines, underground conduit, or any other equipment or facilities upon private property without owner consent (except as may be provided by applicable law, including Section 621 of the Cable Act) or to use publicly or privately owned conduits without a separate agreement with the owners.
- (b) A franchise is nonexclusive, and will not expressly or impliedly preclude the issuance of other franchises to operate such systems within the city, or affect the city's right to authorize use of rights-of-way to other persons as it determines appropriate.
- (c) Once a franchise agreement has been accepted and executed by the city and a franchisee, such franchise agreement shall constitute a contract between the franchisee and the city, and the terms, conditions, and provisions of such franchise agreement, together with this article and all other duly enacted and applicable laws, shall define the rights and obligations of the franchisee and the city relating to the franchise.
- (d) A franchise agreement shall contain provisions setting forth when a transfer of a franchise will be deemed to have taken place, taking into account the ownership structure of the particular franchisee.
- (e) A franchisee shall at all times be subject to and shall comply with all generally applicable laws. A franchisee shall at all times be subject to all lawful exercise of the police power of the city not inconsistent with the terms of its franchise, including, but not limited to, city ordinances related to the use and occupancy of rights-of-way.
- (f) Except as may be specifically provided in this article or under the terms of a franchise agreement, the failure of the city, upon one or more occasions, to exercise a right or to require

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compliance or performance under this article or a franchise agreement shall not be deemed to constitute a waiver of such right or waiver of compliance or performance.

- (g) The provisions of this article in effect on the effective date of a franchise shall apply to a franchise agreement as if fully set forth in the franchise agreement, and the express terms of this article will prevail over conflicting or inconsistent provisions in a franchise agreement, unless such franchise agreement expresses an explicit intent to waive a requirement of this article.
- (h) Except as to matters which are governed solely by federal law or regulation, a franchise agreement will be governed by and construed in accordance with the laws of the State of South Carolina.

(Ord. No. 2001-74, § 1.02, 9-17-01)

Secs. 8-503-8-530. - Reserved.

# DIVISION 2. - APPLICATIONS FOR GRANT, RENEWAL, MODIFICATION OR TRANSFER OF FRANCHISES

Sec. 8-531. - Application required.

Sec. 8-532. - Information in application.

Secs. 8-533—8-550. - Reserved.

### Sec. 8-531. - Application required.

- (a) A written application shall be filed with the city for:
  - (1) Grant of a new franchise;
  - (2) Renewal of a cable franchise under formal procedures in accordance with Section 626 of the Cable Act;
  - (3) Modification of a franchise agreement;
  - (4) A transfer of a franchise; or
  - (5) Any other relief from the city pursuant to this article or a franchise agreement.

An applicant has the burden to demonstrate in its application compliance with all requirements of this article and of all applicable laws.

- (b) To be acceptable for filing, a signed original of the application shall be submitted together with ten copies, be accompanied by the required application filing fee as set forth in section 8-532 hereof, conform to any applicable request for proposals, and contain all required information. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.
- (c) All applications accepted for filing shall be made available by the city for public inspection. (Ord. No. 2001-74, § 2.01, 9-17-01)

#### Sec. 8-532. - Information in application.

- (a) An application for the grant of a franchise or for the renewal of a franchise under formal procedures in accordance with Section 626 of the Cable Act shall contain, at minimum, the following information:
  - (1) Name and address of the applicant and identification of the ownership and control of the applicant, including: the names and addresses of the ten largest holders of an ownership interest in the applicant, and all persons with five percent or more ownership interest; the persons who control the applicant; all officers and directors of the applicant;
  - (2) An indication of whether the applicant, or any person controlling the applicant, or any officer, director or major stockholder of the applicant, has been adjudged bankrupt, had a franchise or license revoked, or been found by any court or administrative agency to have violated a security or antitrust law, or to have committed a felony, or any crime involving moral

turpitude; and, if so, identification of any such person and a full explanation of the circumstances;

- (3) A statement of the proposed method of construction of the proposed system, including an estimate of the percentage of the system to be constructed underground, and the proposed construction schedule;
- (4) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the proposal meets all federal and state requirements;
- (5) An indication of the applicant's technical, legal, and financial ability to construct and/or operate the proposed cable system, including identification of key personnel;
- (6) A description of the applicant's prior experience in cable system ownership, construction and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or license or any interest therein;
- (7) An identification of the area of the city to be served by the proposed cable system, including a description of the service area's boundaries;
- (8) A description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities;
- (9) A demonstration of how the applicant's proposal will reasonably meet the projected cable-related needs and interests of the community, including a description of how the proposal will meet the needs described in any recent community needs assessment conducted by or for the city; and
- (10) Any other information as may be reasonably necessary to demonstrate compliance with the requirements of this article and information that the city may request of the applicant that is relevant to the city's consideration of the application, including the requirement for a guarantee by applicant's parent.
- (b) An application for modification of a cable franchise shall include, at minimum, the following information:
  - (1) The specific modification requested;
  - (2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved;
  - (3) A statement whether the modification is sought pursuant to Section 625 of the Cable Act, and, if so, a demonstration that the requested modification meets the standards set forth in the Cable Act; and
  - (4) Any other information necessary for the city to make an informed determination on the application for modification.
- (c) An application for approval of a transfer of a franchise and a notification of a pro forma transfer shall both comply with the requirements of section 8-575 hereof.
- (d) To be acceptable for filing, an application shall be accompanied by a filing fee in the amounts set forth in fee schedules adopted by the city from time to time by ordinance. (Ord. No. 2001-74, § 2.02, 9-17-01)

#### Secs. 8-533—8-550. - Reserved.

#### **DIVISION 3. - GENERAL CABLE FRANCHISE PROVISIONS**

Sec. 8-551. - Term of franchise.

Sec. 8-552. - Grant of franchise.

Sec. 8-553. - Compensation to city for franchise.

Sec. 8-554. - Minimum facilities and services.

Sec. 8-555. - Public, educational, and governmental access channels.

Sec. 8-556. - Service to public institutions; additional government access support; institutional network.

Sec. 8-557. - Emergency use of cable system.

Sec. 8-558. - Lockout devices.

Sec. 8-559. - Line extension policy for cable system.

Sec. 8-560. - Customer service requirements for cable systems.

Sec. 8-561. - Cable system subscriber privacy.

Sec. 8-562. - Discrimination prohibited.

Sec. 8-563. - Rates.

Sec. 8-564. - Technical standards.

Sec. 8-565. - Security fund.

Sec. 8-566. - Payment of audit costs and consultant and legal fees.

Sec. 8-567. - Construction schedule.

Sec. 8-568. - Construction work regulation by city, alterations, public improvements and underground conduit use by franchisee.

Sec. 8-569. - Bonds.

Sec. 8-570. - Enforcement remedies.

Sec. 8-571. - Accounts, records, reports and investigations.

Sec. 8-572. - Exercise of authority.

Sec. 8-573. - Interconnection of other service providers.

Sec. 8-574. - Transfer, assignment or lease of franchise.

Sec. 8-575. - Notices.

Sec. 8-576. - Violations.

Sec. 8-577. - Forfeiture and termination.

Sec. 8-578. - Arbitration.

Secs. 8-579—8-590. - Reserved.

#### Sec. 8-551. - Term of franchise.

- (a) Subject to the restrictions set forth herein, the city may grant cable franchises authorizing the franchisee to construct, expand, reconstruct, maintain, use and or operate in, along, across, on, over, through, above and under the rights-of-way to provide cable services. Such franchises shall be granted for terms not to exceed 15 years.
- (b) In determining the length of franchise to grant to a potential franchisee or the length of a franchise renewal, the city shall determine the applicant's willingness and ability to meet the community's needs as such needs have been identified, and the flexibility of the franchisee to accommodate those needs as they change during the term of the franchise.

(Ord. No. 2001-74, § 3.01, 9-17-01)

#### Sec. 8-552. - Grant of franchise.

- (a) The city may make the grant of a cable franchise conditioned upon the completion of construction within a prescribed time or upon the performance of other specific obligations which are to be set forth in the franchise agreement, specifying that failure to comply with the condition will cause the franchise to become null and void, subject to the procedural requirement of section 8-577 hereof.
- (b) In evaluating an application for a cable franchise, the city may consider, among other things, the ability of public rights-of-way to accommodate the proposed system, the potential disruption to

users of public rights-of-way, and resultant inconvenience, if any, to the public.

(c) The city may hold a public hearing to consider an application. Based upon the application, the testimony presented at the public hearing, any recommendations of the city manager or staff, and any other information relevant to the application, the city shall decide by resolution whether to grant or deny an application.

(Ord. No. 2001-74, § 3.02, 9-17-01)

## Sec. 8-553. - Compensation to city for franchise.

- (a) As compensation for the privilege granted under a cable franchise for the use of the rights-of-way to construct and operate a cable system for the provision of cable services, franchise shall pay to the city a cable franchise fee equal to five percent of its gross revenues. The franchise fee shall be paid on a quarterly basis.
- (b) Franchisee may calculate gross revenues for purposes of determining the cable franchise fee owed on either a cash or accrual basis, provided, however, the franchisee must use the same method throughout the term of the franchise absent the prior written consent of the city manager. If franchisee calculates gross revenues on an accrual basis, franchisee may subtract its actual bad debt expenses for the relevant period from gross revenues, as appropriate, provided, however, that any bad debt subsequently collected shall be included in gross revenues, as appropriate, in the period in which the bad debt is collected.
- (c) A franchisee shall file within three months following the end of each of its fiscal years a statement setting forth the computation of gross revenues used to calculate the franchise fee for the preceding year. The statement shall contain detail on the revenue items contained within the definition of gross revenues in section 8-501 herein, and shall be certified by a certified public accountant or the franchisee's chief financial officer. The franchisee shall bear the cost of the preparation of such financial statements. Upon request by the city, which request shall not be made more often than once every three years, franchisee shall cause an independent audit to be performed of its franchise fee payments. Such audit shall be at franchisee's expense. A request by the city under this provision shall not prevent the city from undertaking its own audits, at times deemed appropriate by the city, of franchisee's performance under this article and its franchise.
- (d) The acceptance by the city of any payment from franchisee of the cable franchise fee shall not constitute a release or an accord and satisfaction of any claim the city may have against franchisee for performance of any of its obligations under its franchise, or local, state or federal law, including, without limitation, franchisee's obligation to pay the proper franchise fee amount owed.
- (e) Following the expiration or the termination for any reason of its franchise, franchisee shall pay the franchise fee owed as of the date that its operations ceased within 90 calendar days of ceasing such operations. Such payment shall be accompanied by a gross revenues audit report prepared by a certified public accountant showing the revenues received, and any deductions made therefrom, by franchisee since the end of the previous fiscal year.

(Ord. No. 2001-74, § 3.03, 9-17-01)

# Sec. 8-554. - Minimum facilities and services.

- (a) The following minimum requirements for facilities and services apply to all cable franchises granted by the city. The city may require in a franchise agreement that a franchise exceed these minimum requirements where it determines, under circumstances existing at the time of the application, that the additional requirements are necessary to meet public needs.
  - (1) Each cable system shall offer services that meets the current and future needs of the city. The franchise agreement shall include a complete description of the design of the cable system and how the cable system will meet the current and projected needs of the city. For new

franchisees, such service shall, at a minimum, be comparable to the services offered by existing franchisees in the city.

- (2) The cable system must have two-way capability.
- (3) All television signals received by franchisee for carriage on franchisee's cable system that contain closed caption information for the hearing impaired shall be transmitted over franchisee's cable system with such closed caption information for the hearing impaired.
- (4) All antennas, supporting structures, and outside plant used in operating and maintaining franchisee's cable system must comply with the recommendations of the National Electric Safety Code and all federal, state, county, city and/or utility laws, ordinances, rules and regulations on tower structures and outside plant.
- (5) All construction, installation and maintenance of franchisee's cable system must comply with the National Electrical Safety Code, all state and local laws and regulations, and accepted industry practices.
- (6) Franchisee must not design, install, or operate its system in a manner that will interfere with the signals of any broadcast station, the electrical system located in any building, the cable system of another franchisee, or individual or master antennas used for receiving television or other broadcast signals.
- (7) Franchisee's cable system shall meet or exceed all technical and signal quality standards of the FCC.
- (8) Franchisee shall ensure that both audio and video reception of cable channels with predominantly adult programming, both analog and digital, not subscribed to by subscribers, are completely blocked.
- (b) Franchisees may, and upon request from the city shall, periodically survey subscribers to assess programming preferences. The results of such surveys shall be submitted to the city upon completion. If requested by the city, franchisee shall submit proposed questions to the city for its review prior to undertaking the survey. If the survey indicates subscriber preference for programming not presently carried on franchisee's cable system, franchisee shall undertake commercially reasonable efforts to determine the technical, contractual and economic feasibility of adding such programming, and shall report its finding to the city.
- (c) Periodic reviews.
  - (1) When the city deems it advisable, but no more often than every five years during the term of the franchise, the city shall give notice to the franchisee and the public that it is commencing an evaluation of the franchisee's performance under its franchise. The results of this evaluation shall be reported at a public city council meeting. The primary purpose of this evaluation shall be to consider whether the franchisee has substantially complied with, or made all reasonable efforts to comply with, all substantive requirements of its franchise, especially the customer service standards.
  - (2) Notice of all evaluation sessions shall be published in the same way as a legal notice.
  - (3) If an evaluation proceeding has revealed deficiencies in the franchisee's performance under its franchise, the city shall notify the franchisee and request that the deficiencies be corrected within a reasonable period of time. If the deficiencies involve substantial non-compliance and repeated non-compliance with the franchise and are not, or cannot be, corrected within a reasonable period of time, the city may initiate a proceeding proposing the termination of the franchise or other appropriate action.
- (d) Annual performance report.
  - (1) On or before March 1 of each year, the franchisee shall file a report with the city covering system activity in the prior calendar year. The report shall include:
    - a. Changes in programming and rates:

- b. Changes in other services offered;
- c. Capital investments in the system, which impact services in the city, during the year;
- d. A current list of officers and directors;
- e. Proposed changes for the coming year;
- f. A completed subscriber survey, as described in section 8-560(c); and
- g. A certification of compliance with customer service standards set forth in section 8-560 of this article.
- (2) At the city's request, franchisee shall attend a city council meeting for the purpose of presenting the annual performance report and addressing comments and questions from the council and members of the public.
- (e) To assist in its review and evaluations, the city may enlist an independent consultant to conduct an analysis of the cable system and its performance and to submit a report of such analysis to the city. Topics which may be addressed include, but shall not be limited to: franchise fees, services, application of new technologies, cable system technical performance, and related facilities and equipment, subscriber complaints, privacy, amendments, subsequent legal developments, including judicial and FCC rulings, and franchisee or city rules. During evaluations by the city, the franchisee shall cooperate fully with the city and shall provide, without cost, such existing information and documents as the city may reasonably request. Nothing in this section shall be implied as reopening franchise negotiations or making modifications to the franchise.

  (Ord. No. 2001-74, § 3.04, 9-17-01)

### Sec. 8-555. - Public, educational, and governmental access channels.

- (a) The city has determined that it is in the public interest for all franchisees to provide non-commercial public, educational, and governmental ("PEG") access channels on the cable system for the benefit of the public, as determined by the city. The provision of such PEG access channels shall be without charge to the city. Unless specifically allowed by the city, all PEG access channels shall be available to all subscribers on a basis equal in quality and accessibility to other basic tier services and shall be placed on the basic tier of service without separately listed charge. The city's use of underwriting to support programming on the access channels shall not constitute commercial use of such channels.
- (b) Should the franchisee, due to business necessity, realign channels which results in PEG channels being relocated, the franchisee will assist the PEG channel operator with advertising and reasonable expenses required to inform viewers of the new channel location.
- (c) The number of PEG access channels to be provided by each franchisee shall be set forth in the franchise agreement. The city may designate PEG channels for use by public, educational or governmental access users or organizations at its sole discretion. The city may designate one channel for several users or users on a shared basis. The city may promulgate rules and procedures for the use of channels, facilities, equipment and other support designated for PEG access. In the case of any franchise under which channel capacity is designated for PEG use, the city may promulgate rules and procedures under which franchisee is permitted to use such channel capacity for the provision of other services if such channel capacity is not being used for such designated purposes.
- (d) Each franchisee shall interconnect its system with all other systems operating under a franchise granted by the city so that the channels designated for PEG access shall be transmitted on all systems simultaneously and on the same channels, where technically feasible. This obligation includes the provision of all devices required to accomplish such interconnection. To the extent that a franchisee is providing facilities, support or programming for PEG access channels that another franchisee is required to carry by interconnection, the interconnecting franchisee shall on a quarterly basis reimburse such franchisee for a pro rata share of the out-of-pocket expenditures made during such

quarter by the franchisee to provide such facilities, support or programming. The interconnecting franchisee's pro rata share shall be a fraction, the numerator of which is the number of the interconnecting franchisee's subscribers and the denominator of which is the total number of subscribers of all franchisees receiving such PEG content, determined as of the end of each calendar quarter.

- (e) Franchisee shall have no rights to PEG channel programming by virtue of cablecasting or distributing such programming over its cable system, except for franchisee's right to transmit such programming to all the subscribers receiving a signal from the cable system headend serving the Greenville area. All rights to programming content and intellectual property of any type transmitted by franchisee shall remain the property of the owner, regardless of the individual or entity requesting transmission. No intellectual property transmitted over PEG channels or bandwidth shall be retransmitted by franchisee or any affiliates in whole or in part without the consent of its owner.
- (f) The PEG channels shall be placed under the authority of the city for use related to governmental and educational purposes or individual expression. PEG channel use may include sponsorships and underwriting. No restrictions shall be placed on the use of these channels for a public purpose of a governmental entity or curriculum requirement of an educational institution, except as provided in this article and in individual franchises. As provided by law, franchisee shall not exercise editorial control over programming of any PEG channel. At no time shall the franchisee interrupt at its headend or hub site the signal provided on any PEG channel without the express consent of the city, except in circumstances beyond the franchisee's control. Notwithstanding the foregoing, the franchisee may undertake normal maintenance activities that will interrupt the signal provided that such maintenance activities will be scheduled to cause a minimum of disruption to planned programming.
- (g) In the event it becomes both technologically and economically feasible to provide over the same channel video, audio, and/or data signals, franchisee shall meet and discuss with the city those alternative uses for the PEG channels.
- (h) If a franchise requires a periodic re-evaluation of the number of PEG channels to be provided by a franchisee, the usage of such channels shall be as provided herein. An educational or government access channel shall be considered to be minimally utilized when 50 percent of the 18 available cablecast hours per day are programmed, of which at least 20 percent is for non-repeat programming. An educational or government access channel shall be considered to be fully utilized when 80 percent of the 18 available cablecast hours are programmed (of which at least 50 percent is for non-repeat programming). A public access channel shall be considered to be minimally utilized when 25 percent of the programming is non-repeat programming. A public access channel shall be considered to be fully utilized when 80 percent of the programming is for non-repeat programming. The calculation of the minimum and maximum described shall be measured in each one-week period averaged over one calendar year. The available cablecast hours for purposes of this paragraph do not include the hours between midnight and 6:00 a.m. If additional channels are required to be provided, but can only be accommodated on digital, or non-basic tiers, franchisee shall cooperate with the city in determining the channel assignments to be made and notification requirements to subscribers.
- (i) The franchisee shall provide reasonable technical assistance necessary to transmit access programming on the PEG channels as directed by the city, as applicable, on an as-needed basis.
- (j) In addition to the requirement that franchisee provide PEG access channels, franchisee may also be required to provide funds for production facilities and equipment for PEG channels in an amount to be set forth in the franchise agreement. All such facilities and equipment shall be for the benefit of the city and its residents and shall be subject to the sole control of the city, but franchisee may hold legal ownership title.
- (k) It is contemplated that the city may award more than one franchise for the provision of cable

services in the city. Each franchisee shall be required to contribute to meeting the city's identified needs and goals with regard to the provision of PEG channels. Toward that end, the city may require each franchisee to interconnect with other franchisees, to provide separate PEG channels, or to provide cash contributions. The details and substance of such requirements shall be negotiated with each franchisee and included in the individual franchise agreements, with the goal that the obligations to meet the city's identified needs and goals shall be equitably shared among all franchisees.

(Ord. No. 2001-74, § 3.05, 9-17-01)

# Sec. 8-556. - Service to public institutions; additional government access support; institutional network.

- (a) Franchisees shall be required to provide cable service without charge to facilities within the city passed by the cable system that are owned or predominantly occupied by the city, county or a public educational institution, that are devoted to predominantly educational or governmental use and that are specified in the franchise agreement.
- (b) If franchisee provides Internet access service over its cable system, franchisee shall provide one free modem to each municipally-owned facility specified in the franchise agreement. Along with the free modem, franchisee shall provide Internet access service to such facilities at no monthly charge. (Ord. No. 2001-74, § 3.06, 9-17-01)

### Sec. 8-557. - Emergency use of cable system.

Franchisee shall install and maintain an audio override on all channels for transmission of emergency messages and alerts as required by federal law. Franchisee shall also cooperate and coordinate with the Greenville County Emergency Preparedness Coordinator and with the city manager's designee with regard to emergency communications.

(Ord. No. 2001-74, § 3.07, 9-17-01)

#### Sec. 8-558. - Lockout devices.

Franchisee shall make available at a reasonable charge to any residential subscriber, upon the request of such subscriber of the cable system, a parental guidance or lock-out device which shall permit the subscriber, at his or her option, to eliminate the audio and visual transmissions from any channel reception. Franchisee shall advise all residential subscribers annually of the availability of such devices.

(Ord. No. 2001-74, § 3.08, 9-17-01)

#### Sec. 8-559. - Line extension policy for cable system.

- (a) Franchisees shall make cable service available to dwelling units within the city where the dwelling unit is in an area in which franchisee has completed construction of its facilities, where the minimum density is 25 dwelling units per cable mile or greater, and provided such dwelling units are located within 150 feet of franchisee's distribution system.
- (b) Where potential subscribers reside in a portion of the city where franchisee has completed construction of its facilities and the dwelling unit density is below the prescribed minimum, franchisee may extend service to such potential subscribers, and shall extend service to such potential subscribers under the following conditions:
  - (1) If the potential subscribers are willing to pay a one-time charge equal to franchisee's construction cost per dwelling unit passed in excess of franchisee's construction cost per dwelling unit passed at the prescribed minimum dwelling unit density; or
  - (2) If 15 potential subscribers per cable mile commit themselves to taking service in a manner

reasonably satisfactory to franchisee and the potential subscribers.

(c) Where potential subscribers reside in dwelling units more than 150 feet from franchisee's distribution system, franchise may extend service to such potential subscribers, and shall extend service to such potential subscribers if the potential subscribers are willing to pay an additional charge to franchisee reflecting franchisee's incremental costs in extending its service beyond 150 feet from its distribution system.

(Ord. No. 2001-74, § 3.09, 9-17-01)

#### Sec. 8-560. - Customer service requirements for cable systems.

- (a) Franchisee shall comply with each of the customer service requirements set forth in Attachment A of this article.
- (b) If franchisee is building a new cable system in the city, it shall have a period of six months from the time its cable system is operational and it is providing cable service in the city, to come into compliance with the requirements. If franchisee is building a new cable system in the city in phases, it shall have a period of 90 calendar days from the time each phase of its cable system is operational and it is providing cable service within that phase, to come into compliance with the requirements.
- (c) Franchisee shall submit quarterly reports certifying its compliance with the customer service requirements and explaining any instances of non-compliance during the report period.
- (d) In every other year during the term of its franchise, franchisee shall conduct annual surveys of subscribers to assess subscriber satisfaction with the franchisee's customer service. The surveys shall be performed by an independent entity. Complete copies of the annual compliance reports and surveys shall be provided to the city at the time of franchisee's annual performance report, as set forth in section 8-554(d). If requested by city, franchisee shall submit copies of proposed survey questions prior to the survey being undertaken for the city's review and comments. Customer surveys to assess compliance with the telephone answering standards of Attachment A of this article shall be included in the biannual surveys if any one of franchisee's quarterly reports within the 12 calendar months preceding the subscriber survey indicate a clear failure of franchisee to comply with such standards. A clear failure to comply is shown by franchisee's failure to meet the compliance percentages contained in Attachment A, sections 7 and 10 of this article.

  (Ord. No. 2001-74, § 3.10, 9-17-01)

#### Sec. 8-561. - Cable system subscriber privacy.

A franchisee shall protect the privacy of all subscribers pursuant to the provisions of Section 631 of the Cable Act.

(Ord. No. 2001-74, § 3.11, 9-17-01)

#### Sec. 8-562. - Discrimination prohibited.

- (a) No franchisee may in its rates or charges, or in the availability of the services or facilities of its system, or in any other respect, make or grant illegal preferences or advantages to any subscriber, potential subscriber, or group of subscribers or potential subscribers, nor subject any such persons or group of persons to any illegal prejudice or any disadvantage; provided, however, a franchisee may offer discounts in order to attract or maintain subscribers provided that such discounts are offered on a non-discriminatory basis. A franchisee shall not deny, delay, or otherwise burden service or discriminate against subscribers or users on the basis of age, race, creed, religion, color, sex, handicap, national origin, martial status, or political affiliation, except for discounts for the elderly or handicapped that are applied in a uniform and consistent manner.
- (b) A franchisee shall not deny cable service to any potential subscriber because of the income of the residents of the area in which the subscriber resides.

(Ord. No. 2001-74, § 3.12, 9-17-01)

#### Sec. 8-563. - Rates.

If a cable franchise franchisee is subject to effective competition, nothing in this article shall be construed to allow the city in any manner, whether directly or indirectly, to regulate rates for franchisee's cable system, installation, disconnection, or equipment rental, such prohibition of rate regulation being in accordance with state and federal law. If, at any time during the term of its franchise, franchisee is not subject to effective competition, the city reserves the right to institute cable service rate regulation as permitted under applicable law.

(Ord. No. 2001-74, § 3.13, 9-17-01)

#### Sec. 8-564. - Technical standards.

- (a) Any cable system within the city shall meet or exceed the technical standards set by the FCC as hereafter may be amended or adopted, and any other standards set forth in this article, the franchise, or other applicable federal or state laws or regulations.
- (b) All construction, installation and maintenance shall comply with the National Electric Safety Code, the National Electric Code, all laws and accepted industry practices, and as such may hereafter be amended or adopted.
- (c) The city may require an annual proof of performance test or other tests to be performed at the expense of the franchisee. At the times specified in the franchise agreement, the franchisee shall perform at its expense proof of performance tests designed to demonstrate compliance with the requirements of this article, the franchise agreement, and then existing FCC requirements. If the city has provided written notice of its desire to observe performance tests, the franchisee shall notify the city so that the city may have an observer present. The franchisee shall provide the proof of performance test results promptly to the city. The city shall have the right to inspect the cable system facilities during and after their construction to ensure compliance with the requirements of the franchise agreement, this article and FCC standards.
- (d) A franchisee shall not design, install, or operate its facilities in a manner that will interfere with the signals of any broadcast station, the electrical system located in any building, the cable system of another franchisee, or individual or master antennas used for receiving television or other broadcast signals.

(Ord. No. 2001-74, § 3.14, 9-17-01)

#### Sec. 8-565. - Security fund.

(a) Within 30 calendar days of the effective date of the franchise, the franchisee shall post with the city a security fund to ensure the faithful performance of all provisions of this article, the franchise agreement, and other applicable law, and compliance with all orders, permits and directions of the city, and the payment by the franchisee of any claims, liens, fees, or taxes due the city which arise by reason of the construction, operation or maintenance of the cable system. At the franchisee's option, the security fund may take the form of a cash deposit, a surety bond, a letter of credit, or other forms of security as approved by the city. The minimum amount of a security fund shall be \$25,000.00. The minimum security fund amount shall increase on January 1 of each year by the same percentage that the Consumer Price Index applicable to the Greenville, South Carolina area increases. The city shall inform franchise applicants of the amount of the required security fund. A franchise agreement may provide for a security fund greater than the minimum specified in this article where the city determines, under circumstances existing at the time, that such larger security fund is necessary in light of the size of the franchisee's system or the nature of its financial qualifications or experience, or to protect the public or to provide adequate incentive to the franchisee to comply with this article

and the franchise agreement.

- (b) If franchisee posts a cash security, the city shall place the security deposit in an interest bearing account. The interest will accrue to the benefit of franchisee but may not be withdrawn by franchisee; all interest will be added to and become part of the security fund during the term of the franchise. The city shall monitor the amount of interest being deposited into the cash security fund to determine whether the security fund is increasing by the same amount that the Consumer Price Index referenced in paragraph (a) is increasing. In the event that the city determines that the interest deposits into the security fund are not maintaining the security fund at the level required by application of the Consumer Price Index, the city shall notify the franchisee that additional cash deposits are required.
- (c) If franchisee posts a security fund other than cash, the amount of the security fund shall be increased each year by the same percentage amount that the Consumer Price Index referenced in paragraph (a) is increasing. The city shall notify the franchisee during the first calendar quarter each year of the additional funds required.
- (d) If a franchisee fails to pay the city any fees or taxes, liquidated damages, damages, or costs or expenses incurred by the city by reason of any act or default of the franchisee, or if the franchisee fails to comply with any provision of this article or of its franchise agreement that the city manager determines can be remedied by an expenditure of the security fund, the city manager may, after 30 calendar days notice to the franchisee, withdraw that amount with any interest or penalties from the security fund. Within 15 calendar days of receipt of such notice from the city manager, the franchisee may file a written request for a city council hearing on the matter. Such hearing shall be held within 30 calendar days of the city manager decision to withdraw from the security fund, unless the city wishes to extend the time period. During such hearing, the franchisee shall have an opportunity to be heard, to present evidence and testimony in its behalf. The city shall not withdraw any funds until such time as the hearing has been completed. If the franchisee does not file a written request for a city council hearing within the prescribed time period, then the city may withdraw such funds as provided in the resolution. After any withdrawal from the security fund, the city shall promptly notify the franchisee of the amount and date of the withdrawal.
- (e) Within 30 calendar days after notice to the franchisee that an amount has been withdrawn by the city from the security fund, the franchisee shall pay into its security fund sufficient funds to restore the security fund to the total amount in the fund immediately prior to the withdrawal. If the franchisee fails to restore the security fund to the original amount within 30 calendar days, the entire security fund remaining may be forfeited, and/or such failure may be considered a material breach of this article and the franchise agreement may be used as grounds for revocation of the franchise.
- (f) The security fund will become the property of the city in the event the franchise is revoked. The franchisee is entitled to the return of the balance of the security fund that remains following the expiration of the franchise, provided that there is no outstanding default or unpaid amounts owed to the city by the franchisee.
- (g) The rights reserved to the city with respect to the security fund are in addition to all other rights of the city, whether reserved by this article, by the franchise agreement, or authorized by other law, and no action, proceeding or exercise of a right with respect to such security fund will affect any other right the city may have.

(Ord. No. 2001-74, § 3.15, 9-17-01)

#### Sec. 8-566. - Payment of audit costs and consultant and legal fees.

(a) If an audit of franchise fee payments is performed by the city and such audit findings indicate an underpayment by franchise of franchise fees in the amount of five percent or more, all costs of such audit shall be reimbursed by the franchisee to the city upon receipt of written notice.

Additionally, in the event any audit, whether performed by the city or by franchisee upon city's request, results in a finding of underpayment by the franchisee in the amount of five percent or more, franchisee shall pay a late payment penalty to the city.

- (b) A franchisee shall pay all costs and fees of outside consultants and retained counsel incurred by the city for processing and evaluating franchisee's application and for reviewing and administering franchisee's compliance with this article, and with the franchise agreement and other applicable ordinances, laws, rules or regulations. Franchisee's obligations for such costs and fees shall not in any event exceed a reasonable amount as set forth in the franchise agreement.
- (c) The grant of an initial franchise, a renewed franchise, an application to modify a franchise agreement, or an application to transfer a franchise may be subject to a processing fee, in an amount not to exceed the city's out-of-pocket costs, including all costs and fees incurred by the city for consultants, analysts and counsel, in considering the application, less the amount of the filing fee set pursuant to section 8-532. Within 30 calendar days from the date of the action by city council granting or denying the franchise, franchise renewal, franchise modification or transfer thereof, the city shall notify the franchisee of the amount of any processing fee and its method of calculation. If the processing fee is not paid to the city within 30 calendar days of the date of the notification, any approvals granted by such council action will be null and void.

(Ord. No. 2001-74, § 3.16, 9-17-01)

#### Sec. 8-567. - Construction schedule.

- (a) Specific construction schedules shall be as provided in the franchise. It is expected that all franchisees shall provide a minimum of 54 video channels for cable service, and that the construction schedule provided, if appropriate, in the franchise shall be sufficient to make such cable service available to all areas of the city no later than mid-way through the term of the franchise, but in no event later than five years from the date of city council approval.
- (b) Nothing in this section shall prevent franchisee from completing the construction of the system earlier than required under the terms of the franchise or from providing more channels than the minimum specified in this article.
- (c) For proposed cable systems, franchisee shall make available to the city manager or his/her designee for review a construction plan and maps for construction of the proposed cable system at least 30 calendar days prior to the start of any and all construction undertaken to complete the cable system. The construction plan shall include design details, equipment specifications, design performance criteria, and street repair details and plans. The construction plan shall also include a map of the entire franchise area and shall clearly delineate the following:
  - (1) Areas within the franchise area where the constructed cable system will initially be available to subscribers, including a schedule of construction for each year that construction is proposed; and
  - (2) Areas, if any, within the franchise area where the cable system cannot reasonably be constructed due to lack of present or planned development or other similar reasons, with the areas and the reasons for not serving them clearly identified on the map.
- (d) Failure to comply with the requirements of subsections (a) and (c) of this section, including any delay beyond the dates specified herein, unless approved in writing in advance by the city, will constitute a material breach of this article and of the franchise agreement and shall result in appropriate sanctions, including without limitation the imposition of penalties prescribed in this article.

(Ord. No. 2001-74, § 3.17, 9-17-01)

Sec. 8-568. - Construction work regulation by city, alterations, public improvements and

#### underground conduit use by franchisee.

- (a) All franchisees must comply with the provisions of the city's ordinances as from time to time amended, with regard to all activities of franchisee in the rights-of-way.
- (b) All franchisees must bury cable tv distribution lines and cables which are on private property and which are intended to be installed below ground, within a reasonable time, not to exceed seven (7) working days from the date of installation.

(Ord. No. 2001-74, § 3.18, 9-17-01)

#### Sec. 8-569. - Bonds.

- (a) If a new cable system is to be constructed by franchisee, before construction of the cable system has commenced, franchisee shall obtain and maintain for one year, at its sole cost and expense, and file with the city, a corporate surety bond with a surety company authorized to do business in the State of South Carolina and found acceptable by the city attorney, in the amount of \$500,000.00 to secure franchisee's performance of its obligations and faithful adherence to all requirements under this article and its franchise agreement. After the first initial year, no bond shall be required unless substantial construction is again commenced by franchisee, in which case a bond in the amount of \$500,000.00 shall be obtained. Such bond shall secure franchisee's performance of its obligations and faithful adherence to all requirements under this article and its franchise agreement. In the alternative, franchisee may provide an irrevocable letter of credit in the same amounts in lieu of obtaining a bond. The determination of when a bond is required shall be solely within the discretion of the city, taking into account the scope of proposed construction in relation to the size of the cable system then existing. Construction bond requirements contained in the city's ordinances shall be complied with at all times.
- (b) The rights reserved to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this article or authorized by law; and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights the city may have.
- (c) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until 60 calendar days after receipt by the city, by registered mail, of written notice of such intent." (Ord. No. 2001-74, § 3.19, 9-17-01)

#### Sec. 8-570. - Enforcement remedies.

- (a) In addition to any other remedies available at law or equity, the city has the right to apply any one or combination of the following remedies in the event a franchisee violates this article, its franchise agreement, or applicable state or federal law:
  - (1) Liquidated damages. The city may impose liquidated damages in the following amounts. Payment of liquidated damages by the franchisee will not relieve the franchisee of its obligation to comply with the franchise agreement and ordinance requirements.
    - a. For failure to substantially complete system construction or line extensions as required, unless the city specifically approves a delay for good cause shown, franchisee shall pay up to \$1,000.00 per day for each day, or part thereof, the deficiency continues.
    - b. For material failure to provide data, documents, reports or information in a timely manner as required, franchisee shall pay up to \$200.00 per day, or part thereof, that each violation occurs or continues.
    - c. For failure to substantially comply with the material provisions of sections 8-554 (minimum facilities and services), 8-555 (access channels) and 8-565 (technical standards) of this article, franchisee shall pay up to \$1,000.00 per day for each day, or part thereof, that the violation continues.
    - d. For failure to comply with the provisions of section 8-575 (assignment or lease of

franchise) of this article, franchisee shall pay up to \$1,000.00 per day for each day, or part thereof, that the violation continues.

- e. For failure to comply with any other material provision of this article or of a franchise agreement within 15 calendar days of receipt of notice of such non-compliance, the franchisee shall pay up to \$600.00 per day for each day, or part thereof, that such non-compliance continues.
- f. For failure to substantially comply with reasonable orders of the city pursuant to the terms of the franchise, franchisee shall pay up to \$200.00 per day for each day, or part-thereof, that noncompliance continues.
- g. Before assessing liquidated damages against franchisee, the city shall give franchisee written notice of its intention to assess such damages. Following receipt of such notice, franchisee and the city shall have a 15 calendar day period during which time franchisee and the city shall make good faith reasonable efforts to resolve the dispute in question. If the dispute is not resolved in that 15 calendar day period, the city may collect liquidated damages owed, either through drawdown of the security fund as provided in this article, or through any other means allowed by law.
- (2) Revocation or termination of franchise. Each franchise is subject to revocation, termination or shortening as the city determines is reasonable pursuant to the provisions of section 8-578 of this article.
- (b) In determining which remedy or remedies are appropriate, the city shall take into consideration the nature of the breach, the person or persons bearing the impact of the breach, and such other matters as the city determines are appropriate.
- (c) In addition to or instead of any other remedy, the city may seek legal or equitable relief from any court of competent jurisdiction.
- (d) Failure of the city to enforce any requirements of a franchise agreement or this article shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (e) Notwithstanding other provisions of this ordinance, the fees, penalties, and procedures for the assessment of liquidated damages for non-compliance with the customer service and consumer protection requirements shall be as set forth in Attachment A hereto. (Ord. No. 2001-74, § 3.20, 9-17-01)

# Sec. 8-571. - Accounts, records, reports and investigations.

- (a) Franchisee shall keep complete and accurate books of accounts and records of its business and operations pursuant to its franchise agreement in accordance with generally accepted accounting principles. If required by the FCC, franchisee shall use the system of accounts and the forms of books accounts, records, and memoranda prescribed by the FCC in 47 CFR Part 32 or its successor and as may be further described herein. All pertinent records of franchisee shall be subject to audit by the city to determine franchisee's compliance with the provisions of this article and the franchise.
- (b) Franchisee shall report to the city such other information relating to the performance of its obligations under its franchise as the city may reasonably require and shall comply with the city's reasonable determination of forms for reports, the time for reports, the frequency with which any reports are to be made, and if reports are to be made under oath.
- (c) Franchisee shall make available to the city, upon written request, its books and records to examine, audit, review and/or obtain copies of the papers, books, accounts, documents, maps, plans and other records of franchisee pertaining to compliance with its franchise. Franchisee shall fully cooperate in making available its records and otherwise assisting in these activities.
- (d) The city may, at any time, make inquiries pertaining to franchisee's performance of the terms

and conditions of its franchise agreement and of this article. Franchisee shall respond to such inquiries on a timely basis.

- (e) Franchisee shall provide the city with notices of all petitions, applications, written communications and reports submitted by franchisee or on franchisee's behalf to the FCC and the Public Utility Commission of South Carolina, or their successor agencies, relating to any matters affecting the use of city rights-of-way. Upon written request from city, franchisee shall also provide the city with documentation related to such notices, applications, written communications and reports.
- (f) Upon request by the city, franchisee shall provide a summary of subscriber or consumer complaints, identifying the number and nature of complaints and their disposition. Where complaints involve recurrent system problems, the nature of each problem and the corrective measures taken shall be identified. More detailed information on complaints shall be submitted upon request of the city.
- (g) Prior to disclosure of information clearly claimed in writing to be confidential or proprietary by franchisee, the city shall give franchisee reasonable notice of any request for such information made to the city pursuant to the Freedom of Information Act, or other applicable law.
- (h) If franchisee normally maintains a complete set of books and records in the City of Greenville, Greenville County, South Carolina, such books and records shall be available for inspection and audit by the city for purposes of ascertaining compliance with requirements of this article and the franchise agreement. If such records are maintained outside of the city in the normal course of business, upon request of the city the specific location of all such records shall be identified and such records shall be made available for inspection by the city or its representatives. All reasonable expenses incurred by the city, not to exceed \$3,000.00, in traveling to the location of the records, if outside the city, shall be paid by the franchisee regardless of whether such inspection results in audit findings against franchisee. Such inspection and audit shall be upon reasonable notice and during normal business hours.

(Ord. No. 2001-74, § 3.21, 9-17-01)

#### Sec. 8-572. - Exercise of authority.

In order to ascertain any and all facts relating to the exercise of its authority under this article and the franchise agreement, the city shall have full power and authority from franchisee to; inspect, or cause to be inspected, the books and records of franchisee; inventory and appraise, or cause to be inventoried or appraised, the property of franchisee within the city; compel the attendance of witnesses and the production of books and records; and prescribe reasonable penalties for the failure or refusal of franchisee to testify or to produce books and records from time to time as reasonably required.

(Ord. No. 2001-74, § 3.22, 9-17-01)

# Sec. 8-573. - Interconnection of other service providers.

- (a) Franchisee shall be required to provide interconnection with other service providers in a manner consistent with federal and/or state regulations.
- (b) In case of an emergency or disaster, franchisee shall, upon reasonable request of the city, make available its facilities to the city, without cost, for emergency use. (Ord. No. 2001-74, § 3.23, 9-17-01)

#### Sec. 8-574. - Transfer, assignment or lease of franchise.

(a) Neither its franchise, the cable system, nor any rights or privileges of franchisee under this article or its franchise agreement, either separately or collectively, shall be sold, resold, assigned,

transferred or conveyed by franchisee to any other person, firm, corporation affiliate or entity, without the prior written consent of the city. Consent shall not be unreasonably withheld or delayed.

- (b) Should the franchisee sell, assign, transfer, convey or otherwise dispose of any of its rights or interests under its franchise, including franchisee's facilities, or attempt to do so, without the city's prior consent, the city may revoke the franchise for default, in which event all rights and interest of the franchisee shall cease and no purported sale, assignment, transfer or conveyance shall be effective.
- (c) The prohibitions contained in this section shall not apply to persons that control, are controlled by, or are under common control of franchisee provided the city receives written notice of such pro forma transfer at least 60 days prior to the transfer in accord with city ordinance.
  - (1) In order for a transfer to be considered pro forma under the terms hereof, franchisee must present to the city a guarantee from its corporate parent guaranteeing all payments under the franchise and all obligations of franchisee under the franchise, in substantially the same form as attached set out in Attachment B of this article.
  - (2) A written notice of a pro forma transfer shall include the full legal name of the pro forma transferee, transferee's relationship to franchisee, and names and addresses of contact persons for transferee. The franchisee shall also provide a certificate of good standing from the South Carolina secretary of state for transferee.
  - (3) Unless city notifies franchisee within 30 calendar days after receipt of notice of a pro forma transfer that the transfer does not qualify as a pro forma transfer, citing reasons therefor, the pro forma transfer shall be deemed approved by the city.
- (d) In making a determination on whether to grant an application for a non-pro forma transfer of a franchise, the city shall consider:
  - (1) The legal, financial, technical and other qualifications of the transferee to operate the system;
  - (2) Whether the incumbent is in compliance with its franchise agreement and this article and, if not, the proposed transferee's commitment to cure such noncompliance; and
  - (3) Whether operation by the transferee would adversely affect service or otherwise be contrary to the public interest.
- (e) No application for a non-pro forma transfer of a franchise shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this article and the franchise agreement, and that it will assume the obligations and liabilities of the previous franchisee under this article and the franchise agreement.
- (f) Approval by the city of a transfer of a franchise does not constitute a waiver or release of any of the rights of the city under this article or the franchise agreement, whether arising before or after the date of the transfer.
- (g) Any transfer in violation of this section shall be null and void and unenforceable. (Ord. No. 2001-74, § 3.24, 9-17-01)

Sec. 8-575. - Notices.

All notices required herein shall be in writing and shall be delivered in person to the respective parties or sent by certified mail at the addresses set forth in the franchise.

(Ord. No. 2001-74, § 3.25, 9-17-01)

Sec. 8-576. - Violations.

(a) If the city has reason to believe that franchisee is in violation of this article or of its franchise agreement, the city shall notify franchisee in writing of the violation setting forth the nature of such violation. Within 15 calendar days of receipt of such notice, franchisee shall respond in writing to

provide explanation or documentation to support that the violation did not occur. Franchisee shall be allowed 30 calendar days to cure violations after written notice is received from the city, by taking appropriate steps to comply with the terms of this article and any lawful regulations. If the nature of the violation is such that it cannot be fully cured within 30 calendar days, the period of time in which franchisee must cure the violation shall be extended for such additional time necessary to complete the cure, provided that (i) franchisee shall have promptly commenced to cure, and (ii) franchisee is diligently pursuing its efforts to cure.

- (b) Upon evidence being received by the city that violations of this article, the franchise agreement, any City Charter provisions or any ordinances lawfully regulating franchisee in the construction and operation of its facilities have occurred, or continue to occur after the 30 calendar day period, and any additional time necessary to cure, the city may cause an investigation to be made. If the city finds that such a violation continues to exist or has occurred, then the city may take any action authorized by law, including forfeiture of the franchisee or a suit in court to compel compliance. If, in any such proceeding, default is finally established, franchisee shall pay to the city the reasonable expenses incurred in the prosecution of such suit and all the city's damages and reasonable costs (including reasonable attorney fees and litigation expenses).
- (c) Failure by the city to enforce any rights under this article does not constitute a waiver of such rights.

(Ord. No. 2001-74, § 3.26, 9-17-01)

#### Sec. 8-577. - Forfeiture and termination.

- (a) In addition to all other rights and powers retained by the city under this article or otherwise, the city reserves the right to terminate the franchise and all rights and privileges of franchisee thereunder in the event of material breach of its terms and conditions, subject to reasonable notice and opportunity to cure, as provided herein.
- (b) Material breaches of this article specifically include, but are not limited to:
  - (1) Transactions which have the effect of circumventing the payment of required franchise fees due under this article and/or evasion of payment of the franchise fees due under this article by non-collection or non-reporting of revenues, bartering or any other means which unlawfully evade the actual collection of revenues pursued by franchisee. The foregoing shall not constitute a substantial breach if the violation occurs without the fault of franchisee or occurs as a result of circumstances beyond its control.
  - (2) Any violation of city ordinances.
- (c) In the event franchisee's performance of any of the terms, conditions, obligations, or requirements of the franchise or of this article is prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond franchisee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, natural disasters, civil emergencies and labor unrest or strikes. Franchisee shall notify the city whenever performance is prevented or impaired. Franchisee shall not be excused from performance of any of its obligations under this article or its franchise by mere economic hardship, nor misfeasance or malfeasance of its directors, officers or employees.
- (d) If, within 30 calendar days following written notice from the city to the franchisee that it is in material violation of this article or of other city ordinances, or is in material breach of the franchise agreement, the franchisee has not taken corrective action or corrective action is not being actively and expeditiously pursued, the city may give written notice to the franchisee of its intent to consider revocation of the franchise or reduction in the term of the franchise, stating its reasons.
- (e) A termination or reduction in the term of the franchise shall be declared only by a written

decision of the city council after an appropriate public proceeding before the city council, which shall accord the franchisee due process and full opportunity to be heard and to respond to any notice of grounds to terminate or reduce the term. All notice requirements shall be met by providing the franchisee at least 30 calendar days prior written notice of any public hearing concerning the proposed termination or reduction of term of the franchise. Such notice shall state the grounds for termination or reduction alleged by city.

- (f) The city council, after public hearing, and upon finding the existence of grounds to terminate or reduce the term, may declare the franchise terminated, declare the term of the franchise reduced, or excuse such grounds upon a showing by the franchisee of mitigating circumstances or good cause for the existence of such grounds. The city council's determination shall be in writing setting forth the reasons for its decision. A copy of the written decision shall be transmitted to the franchisee.
- (g) The city council may revoke the franchise, following a public hearing before the city council, six months after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy, assignment for the benefit of creditors, or other action or proceeding, unless within that six-month period:
  - (1) Such assignment, receivership, or trusteeship has been vacated; or
  - (2) Such assignee, receiver, or trustee has fully complied with the terms and conditions of this article and the franchise agreement, and has executed an agreement, approved by a court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of this article and the franchise agreement.
- (h) In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a franchisee, the city may revoke the franchise, following a public hearing before the city council, by serving notice upon the franchisee and the successful bidder at the sale, in which event the franchise and all rights and privileges of the franchise will be revoked and will terminate 30 calendar days after serving such notice, unless:
  - (1) The city has approved the transfer of the franchise to the successful bidder; and
  - (2) The successful bidder has covenanted and agreed with the city to assume and be bound by the terms and conditions of the franchise agreement and this article.
- (i) If the city revokes a franchise, or if for any other reason a franchisee abandons, terminates, or fails to operate or maintain service to its subscribers, the following procedures and rights are effective:
  - (1) The city may require the former franchisee to remove its facilities and equipment at the former franchisee's expense. If the former franchisee fails to do so within a reasonable period of time, the city may have the removal done at the former franchisee's and/or surety's expense, sell the assets in a commercially reasonable manner, recover from the proceeds the city's incurred costs in taking the action, and provide any remaining sums to the franchisee.
  - (2) The city, by ordinance of the city council, may acquire ownership of the former franchisee's equipment and facilities at an equitable price consistent with the Cable Act if the franchise agreement so provides.
  - (3) If equipment and facilities are abandoned by a former franchisee, the city may sell, assign, or transfer all or part of the assets.
- (j) The city may, upon resolution of the city council, acquire ownership of and operate a cable system, whether or not such ownership is acquired following revocation or forfeiture of a franchise.
- (k) Where the city has issued a franchise specifically conditioned in the franchise agreement upon the completion of construction, system upgrade or other specific obligation by a specified date, failure of the franchisee to complete such construction or upgrade, or to comply with such other specific obligation as required will result in the forfeiture of the franchise under the provisions of

section 8-577 where it is so provided in the franchise agreement, unless the city, at its discretion and for good cause demonstrated by the franchisee, grants an extension of time.

(1) Neither franchisee's acceptance of its franchise, franchisee's appearance before the city council at any public hearing concerning proposed termination or reduction of its franchise nor any action taken by the city council as a result of any such public hearing, including a declaration of termination or reduction of term, or a finding of grounds to terminate or reduce the term, shall be construed to waive or otherwise affect the franchisee's right to seek judicial determination of the rights and responsibilities of the parties under the franchise or this article. (Ord. No. 2001-74, § 3.27, 9-17-01)

#### Sec. 8-578. - Arbitration.

- (a) No matter or dispute between the city and a franchisee relating to this article or a franchise agreement may be arbitrable unless specifically provided for in the franchise agreement. Any matter that is arbitrable under the specific provisions of a franchise agreement may be subjected to the arbitration procedures set forth in subsection (b) below.
- (b) The arbitration procedure employed shall be consistent with the rules and procedures of the American Arbitration Association and shall comply with the South Carolina Arbitration Act. The city and the franchisee will each select a qualified arbitrator. The two persons selected shall select a third qualified arbitrator, and the three arbitrators will constitute a panel whose decision is binding on the city and the franchisee. The fees of the first two arbitrators shall be paid by the party selecting such person, and the third person shall be compensated one-half by the city and one-half by the franchisee. The general costs of the proceeding shall be shared equally by the city and the franchisee. (Ord. No. 2001-74, § 3.28, 9-17-01)

#### Secs. 8-579—8-590. - Reserved.

#### **DIVISION 4. - MISCELLANEOUS PROVISIONS**

Sec. 8-591. - Taxes.

Sec. 8-592. - Venue.

Sec. 8-593. - Administration.

Sec. 8-594. - Applicability.

Sec. 8-595. - Reservation of rights.

#### Sec. 8-591. - Taxes.

Prior to issuance of any franchise, franchisee must certify that it is not delinquent in the payment of any taxes owed to the city and will pay any taxes owed to the city so that such taxes will not become delinquent. If the certification given is determined to be false, such false certification shall constitute grounds for termination of the franchise at the option of the city.

(Ord. No. 2001-74, § 4.01, 9-17-01)

# Sec. 8-592. - Venue.

The obligations and undertakings of both parties hereto shall be performed at Greenville, Greenville County, South Carolina. Venue of any suits arising hereunder shall be in state and federal courts having jurisdiction for Greenville County, South Carolina.

(Ord. No. 2001-74, § 4.02, 9-17-01)

#### Sec. 8-593. - Administration.

(a) The city manager, either directly or through a duly appointed designee, shall have the

responsibility for overseeing the day-to-day administration of this article and franchise agreements. The city manager shall be empowered to take all administrative actions on behalf of the city, but shall not be authorized to exercise those responsibilities that are reserved to the city council under this article or the general law of the state.

- (b) A franchisee shall have the right to appeal to the city council any decision of the city manager relating to such franchisee or its franchise agreement. Such appeal must be made by written request within 15 calendar days of receipt of written notice of the city manager's decision that the franchisee seeks to appeal. Council may sustain, reverse, or modify the decision in accord with the provisions of the franchise, this article and other ordinances, but the council may not amend this article or the franchise without two readings of an ordinance.
- (c) To the extent permitted by federal and state law, the city council shall have the sole authority to grant franchises, authorizing the entering into of franchise agreements, renew franchises, revoke franchises, and authorize the non-pro forma transfer of a franchise.

  (Ord. No. 2001-74, § 4.03, 9-17-01)

# Sec. 8-594. - Applicability.

This article shall be applicable to all cable franchises issued by the city to the full extent permitted by state and federal law.

(Ord. No. 2001-74, § 4.04, 9-17-01)

#### Sec. 8-595. - Reservation of rights.

- (a) The city reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers. Any such additional regulations adopted by the city shall be incorporated into this article and complied with by all franchisees within 30 calendar days of the date of adoption of such additional regulations, to the extent such additional regulations are not inconsistent with a franchise.
- (b) The city reserves the right to exercise the power of eminent domain to acquire the property of the franchisee's system.

(Ord. No. 2001-74, § 4.05, 9-17-01)

#### ATTACHMENT A. - CUSTOMER SERVICE AND CONSUMER PROTECTION

- 1. Customer service standards: Franchisee shall at all times comply with the more stringent of the customer service and consumer protection provisions of this exhibit, the franchise and the FCC. This requirement is in addition to the specific provisions of subsequent sections set forth below.
- 2. On-time guarantee: Franchisee shall continue to comply with the National Cable Television Association's On-Time Customer Service Guarantee, a copy of which is attached. The guarantee promises on-time service calls or the customer receives \$20.00, and on-time installation calls or the customer receives a free installation. The \$20.00 may be in the form of a credit.
- 3. Scrambling/blocking: Franchisee shall at all times scramble both the audio and video portions of all channels with predominately adult oriented programming. Upon request by a subscriber, franchisee shall entirely block such subscriber from receiving both the audio and

video portion of any channel with predominantly adult oriented programming with devices such as a notch filter which prevent the frequencies containing a specific channel or channels from being transmitted into the subscriber's premises.

- 4. Pay per view: Subscribers shall be given the option of only having pay per view or per program service provided upon the subscriber providing a security number selected by an adult representative of the subscriber. Franchisee shall provide subscribers with written instructions on the use of the parental block feature.
- 5. Notification: Franchisee shall provide written information on at least each of the following matters (a) at the time of installation or reinstallation of service, (b) annually to all subscribers, and (c) at any time upon request of a subscriber or the city. The information shall be dated with the printing, revision, or effective date.
  - Products and services offered.
  - Prices (rates) and options for cable services and conditions of subscription to cable service. Prices shall include those for programming, equipment rental, program guides, installation, disconnection, processing charges for late payment and other fees charged by franchisee.
  - Installation and service maintenance policies.
  - Instructions on how to use cable services, including procedures and options for pay per view, premium channels and connection to a VCR.
  - Channel positions of programming carried on the cable system, including a listing specific to the city showing the channel names and numbers actually available to subscribers in the city.
  - Billing and complaint procedures with a notice for the subscriber to initially contact franchisee with complaints and questions.
  - Applicable privacy requirements as set forth in the franchise or provided for by law.
  - The availability of lockout devices and the ability to have a channel entirely blocked or trapped.
  - The refunds and free service available for violations of the franchise and how to obtain the same.
  - The procedure for resolving signal quality problems.
- 6. Notice of changes: Subscribers and the city shall be notified of any changes in rates, cable services or channel positions as soon as possible through announcements on the cable system or in writing. Franchisee will notify city in advance of notifying subscribers and will make every effort to notify city 45 days in advance of a change. Unless a longer time period is required by applicable law or regulation, notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of franchisee and as soon as possible if not within the control of franchisee. In addition, franchisee shall notify subscribers and the city 30 days in advance of any significant changes in the matters covered by the

preceding section. Notifications provided pursuant to this section shall be dated with the printing, revision or effective date.

# 7. Telephone service standards:

- (a). Franchisee shall have a local or toll-free telephone number available for use by subscribers toll-free 24 hours per day, seven days per week.
- (b). The local or toll-free numbers shall be listed, with appropriate explanations, in the directory published by each local telephone company and in any significant directories published by others.
- (c). Under normal operating conditions, trained franchisee representatives shall be available to respond to subscriber telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained franchisee representative on the next business day.
- (d). Under normal operating conditions, telephone answer time by a franchisee representative, including wait time, shall not exceed 30 seconds from when the connection is made. If the call needs to be transferred, the time to complete the transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.
- (e). Under normal operating conditions, the subscriber shall receive a busy signal less than three percent of the time, measured on a quarterly basis.
- (f). Franchisee shall maintain a physical office within the city, which shall include a place where subscribers may pay their bills, pickup and return converter boxes and comparable items and receive information on franchisee and its services. The office shall be open nine hours per day, Monday through Friday.
- 8. Installation standards: Under normal operating conditions, installations located up to 125 aerial feet from the existing distribution cable system shall be performed within seven business days after an order has been placed no less than 95 percent of the time, measured on a quarterly basis.
- 9. *Installations/service calls:* The following shall apply to subscribers (current or new) requesting installations or service:
  - (a). Installations and service calls shall be available at a minimum from 8:00 a.m. to 7:00 p.m. Monday through Saturday. Franchisee shall at the subscriber's option either (1) schedule the subscriber to be the first call of the day or last call of the day on a first come, first served basis, or (2) establish an appointment window of no more than four hours with the subscriber (or adult representative of the subscriber) or another appointment window mutually agreed upon between the subscriber and franchisee. At franchisee's option, it may schedule the appointment for a date certain on a "call to meet" basis whereas the service technician finishes his/her prior task, the technician calls the subscriber and arranges to meet the subscriber shortly thereafter.

- (b). Franchisee shall respond to the request for service in accordance with the option selected by the subscriber.
- (c). Franchisee shall not cancel an appointment with a subscriber after 5:00 p.m. on the business day prior to the scheduled appointment.
- (d). If franchisee's technician is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber shall promptly be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient for the subscriber.
- (e). In the event access to the subscriber's premises is not made available to franchisee's technician when the technician arrives during the established appointment window, the technician shall leave written notification stating the time of arrival and requesting that franchisee be contacted again to establish a new appointment window.
- (f). Notwithstanding the foregoing, if franchisee's technician or service representative telephones the subscriber during or prior to the appointment window and is advised that the technician will not be given access to the subscriber's premises during the appointment window, then the technician shall not be obliged to travel to the subscriber's premises or to leave the written notification referred to above, and the burden shall again be upon the subscriber (or adult representative of the subscriber) to contact franchisee to arrange for a new appointment.
- (g). Except as otherwise provided above, franchisee shall be deemed to have responded to a service or installation request under the provisions of this section when a technician arrives at the service location or is advised by telephone no access will be given.
- (h). Franchisee's service technician or service representative shall take adequate time on each service call to address or correct the problem in question.
- (i). In the event that franchisee ceases to provide the NCTA On-Time Customer Service Guarantee a violation by franchisee of the provisions of this section shall automatically entitle the subscriber to one month of free basic service and (if currently purchased by the subscriber) one month of free cable programming service (as defined in 47 C.F.R. § 76.901), limited to \$25.00, which shall be applied as a credit to the subscriber's bill.
- (j). Under normal operating conditions, franchisee shall meet the standards of 9 (a) through 9 (c) above no less than 95 percent of the time measured on a quarterly basis.
- (k). No charge shall be made to the subscriber for any service call relating to franchisee owned and franchisee maintained equipment after the initial installation of cable service unless the problem giving rise to the service request can be demonstrated by franchisee to have been caused by negligence or malicious destruction of cable equipment by the subscriber, or a problem established as having been non-cable in origin.

## 10. Service interruptions:

(a). Under normal operating conditions, franchisee shall meet the standards of 10 (b) and 10 (d) no less than 95 percent of the time measured on a quarterly basis.

- (b). Under normal operating conditions, franchisee shall begin working on a service interruption promptly and in no event later than 24 hours after the interruption becomes known to franchisee.
- (c). "Service interruption" means the loss of picture or sound on one or more cable channels, affecting one or more subscribers.
- (d). Under normal operating conditions, franchisee shall begin working on subscriber complaints involving impairment or degradation of signal quality (other than a service interruption) promptly and in no event later than the next business day after the problem becomes known to franchisee.
- (e). Franchisee shall be deemed to have begun work under the provisions of this section when a technician arrives at the service location.
- (f). Franchisee shall provide affected subscribers, upon request by the city (based upon subscriber's complaints) or the subscriber, with one day's free service (equivalent to the service they were receiving at the time of the interruption) for each day or portion thereof of service interruption.
- 11. Log of complaints: Franchisee shall maintain a written log, or an equivalent stored in computer memory and capable of access and reproduction in printed form, of a random sampling of all cable-related customer complaints within the city that are referred to franchisee's customer care group. Such log shall be in form and substance acceptable to the city and at minimum list the date and time of each such complaint, identify the customer to the extent allowed by law, and describe the nature of the complaint and when and what actions were taken by franchisee in response thereto. The log shall be kept at franchisee's office in or near the city for a period of at least two years and shall be available for inspection during regular business hours by the city upon request.
- 12. *Bills*: Franchisee shall comply with the following on cable service billing:
  - (a). Bills shall be issued monthly to each subscriber with a balance due or change of service.
  - (b). Bills shall be clear, concise and understandable. Bills shall be fully itemized, with itemizations including, but not limited to, basic service, cable programming service, premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates, credits, and late charges.
  - (c). Each bill shall prominently display franchisee's local or toll-free telephone numbers available for use by subscribers. If a bill has more than one portion (for example, one portion that is kept by the customer and one portion that is sent to franchisee) the numbers shall prominently appear on the front side of the portion of the bill retained by the customer.
  - (d). Franchisee shall respond to all written complaints from subscribers regarding billing matters within 30 days.
  - (e). Franchisee shall not disconnect a subscriber for failure to pay legitimately contested

charges during a billing dispute. However, during a billing dispute franchisee may disconnect a subscriber for failure to pay charges that are not contested.

- (f). The city shall be given 30 days advance notice of any change in the format of bills.
- 13. Refunds and credits: Refund checks for cable service shall be issued promptly, but no later than either:
  - (a). The subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier; or
  - (b). If service is terminated, 30 days after return of equipment owned by franchisee or at the time of the next billing cycle, whichever is earlier.
  - (c). Credits for cable service shall be issued no later than the subscriber's next billing cycle following a determination that a credit is warranted.

## 14. Late payment for cable service:

- (a). Each bill shall specify on its face in a fashion emphasizing same (such as bold face type, underlined type or a larger font): "For payments received after [date] a processing fee for late payment may be charged."
- (b). No processing fees for late payment, however denominated, shall be added to a subscriber's bill less than 21 calendar days after the mailing of the bill to the subscriber.
- (c). No processing fees for late payment, however denominated, shall be added to a subscriber's bill by reason of delay in payment other than those described in this section. All such charges shall be separately stated on the subscriber's bill and include the word "late" in the description of them.

#### 15. Disconnection:

- (a). Franchisee shall not perform a hard disconnect on a subscriber for failure to pay until at least 45 days have elapsed after the due date for payment of the subscriber's bill and franchisee has provided at least ten days written notice separate from the monthly bill to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- (b). Franchisee may disconnect a subscriber at any time if franchisee in good faith believes that the subscriber has tampered with or abused franchisee's equipment, that there is a signal leakage problem (or other non-compliance with FCC rules or other standards which poses a risk to lives or property) on the subscriber's premises, or that the subscriber is or may be engaged in the theft of cable services.
- (c). Franchisee shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to requested termination of service shall be required of subscribers by franchisee. The subscriber may continue to be billed for any cable service delivered after the effective date of the disconnect request (unless there is a delay in returning franchisee equipment) for a maximum of three days. If the subscriber fails to specify an effective date for disconnection, the effective date shall be deemed to be the

- day following the date the disconnect request is received by franchisee provided that franchisee equipment has been returned.
- (d). The term "disconnect" shall include customers who elect to cease receiving cable service from franchisee and to receive cable service or other multi-channel video service from another person or entity.
- 16. Truth in advertising: Franchisee's bills, advertising and communications to its current or potential subscribers shall be truthful and shall not contain any false or misleading statement. For the purposes of the preceding, a statement is false or misleading if it contains an untrue statement of any material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.
- 17. Liquidated damages telephone service, installation, service calls: Non-compliance with the customer service standards identified above will harm subscribers and the city and the amounts of actual damages will be difficult or impossible to ascertain. The city may therefore assess the following liquidated damages against franchisee for non-compliance with the customer service standards set forth in sections 7(c), 7(d), 7(e), 8, 9(a), 9(b), 9(c), 9(j), 10(a), 10(b) and 10(d) (measured on a quarterly basis). The liquidated damages set forth below are a reasonable approximation of actual damages and this section is intended to provide compensation and is not a penalty.
  - (a). Telephone standards. The damages for non-compliance with one or more of the standards in sections 7(c), 7(d), and 7(e) during a calendar quarter are \$1.00 per subscriber.
  - (b). Service and installation standards. The damages for non-compliance with one or more of the standards in sections 8, 9(a), 9(b), 9(c), 9(j), 10(a), 10(b) and 10(d) during a calendar quarter are \$1.00 per subscriber.
  - (c). *Minimums*. The liquidated damages for the first and each subsequent non-compliance under section 17 shall be no less than \$5,000.00, unless modified as provided in section 17(d).
  - (d). Effect of extended periods of compliance. If franchisee complies with all of the standards identified in section 17(a) and 17(b) for eight consecutive calendar quarters, the damages for the first subsequent non-compliance with any of those standards will be the greater of \$0.25 per subscriber or \$3,000.00. Following such a non-compliance the damages provided in section 17(a) and 17(b) will again be applicable so that the next non-compliance within four consecutive calendar quarters will be subject to non-compliance damages as provided in section 17(a) and/or 17(b).
  - (e). Non-compliance with other standards contained in this Attachment A shall be as provided in section 8-570 of this article.
- 18. [Number of subscribers:] Franchisee shall report the number of subscribers within the city on the last day of the quarter by the 15th business day of the following quarter.
- 19. Procedure for assessment of liquidated damages: The procedure for consideration and assessment of liquidated damages as outlined in this Exhibit A, Customer Service and Consumer Protection, is as follows:

- Liquidated damages shall be assessed by the city manager or his or her designee.
- Franchisee may obtain a review of the assessment by the city council by making a written request within ten business days after receipt of notice in writing of the assessment and its basis.
- Franchisee shall have an opportunity to be heard at a meeting of the city council or by a person designated by the council as a hearing officer prior to action being taken by the council.
- The city council may adopt additional procedures, including appointment of a city official or other person to act as a hearing officer. The council's decision may be based upon the record of proceedings conducted by the hearing officer or a proposal for decision submitted by the hearing officer.
- 20. Payment of liquidated damages: Liquidated damages shall be paid on or before the tenth business day following assessment or, if franchisee requests review by the city council, on or before the tenth business day following issuance of the council's decision.
- 21. Ombudsman: Franchisee will provide a senior employee (at the vice president or director level) as director of government affairs and ombudsman reporting directly to a regional vice president of CC Holdings. The director of government affairs will have responsibility for working with the city and other cities in the area to address problems that may arise under the franchise and shall be franchisee's ombudsman for both the city and subscribers.
- 22. Definitions: For the purposes of this Attachment A, the following definitions shall apply:
  - (a). Complaint means a telephone call or written communication from a customer notifying franchisee of a problem relating to franchisee's billing or billing practices, franchisee's equipment, picture quality, failure to receive one or more channels, a change in franchisee's practice or policy, franchisee advertising or other business practice, the conduct of a franchisee employee or contractor, or the failure of franchisee or a service representative to comply with customer service regulations.
  - (b). Labor disputes means employee strikes, slowdowns and walkouts of less than 30 days duration.
  - (c). Normal operating conditions means those service conditions which are within the control of the franchisee. Those conditions which are not within the control of the franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, labor disputes, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, reorganization of channels or service offerings, and maintenance or upgrade of the cable system.
  - (d). Service interruptions means the loss of picture or sound on one or more cable channels.
  - (e). Franchise representatives means employees or agents of franchisee who have the authority and capability while speaking with a subscriber to address customer service

issues such as billing questions, adjusting bills, and scheduling service and installation calls.

(Ord. No. 2001-74, Att. A, 9-17-01)

## ATTACHMENT B. - GUARANTEE

20	JARANTEE is made and entered into as of
favor of	Greenville, South Carolina ("City").
	A Cable Television Franchise was granted to on on as set forth in (the "Franchise").
and	The City has reviewed Guarantor's legal, technical, and financial qualifications of, and has determined that possesses the necessary qualifications, Guarantor's affiliate, is reliant on Guarantor qualifications for performance er the Franchise.
Agreeme	nt:
considera agrees as 1.	deration of the City's approval of the Franchise and of other good and valuable ation, the receipt and sufficiency of which is hereby acknowledged by Guarantor, Guarantor follows:  Guarantor, for itself and its successors and assigns, hereby unconditionally and vocably guarantees to the City that:
	(a) All payments due under the Franchise during the term that holds the Franchise, including but not limited to payments of fees, penalties, or interest, shall be fully and punctually paid in accordance with the terms of the Franchise;
	(b) The obligations, terms, covenants, and conditions of the Franchise shall be fully and punctually performed by during the term that holds the Franchise; and
	(c) If any payment required under the Franchise with respect to the term that holds the Franchise is not paid, or if fails to comply with or perform any obligations it has under the Franchise, Guarantor shall punctually make such payments and perform such obligations.
2.	The Franchise is hereby made a part of this Guarantee by reference hereto with the same

force and effect as if fully set forth herein and Guarantor's obligations hereunder are subject to

all rights of under the Franchise.		
3. Guarantor consents that any of the Franchise obligations may be renewed, altered, extended, changed, modified, or released pursuant to the Franchise without affecting or releasing Guarantor from this Guarantee and without the consent of or notice to Guarantor.		
4. This Guarantee shall not be superseded by any other document or guarantee executed by Guarantor, or by any other person, party, or entity, for any purpose, absent the express written approval of the City.		
5. Guarantor agrees that in the event of the City's recourse to any performance, construction, or security bonds required under the Franchise, and in the event the proceeds therefrom are not sufficient to pay in full the indebtedness secured thereby, Guarantor shall be expressly made liable to the City for the amount of the deficiency, notwithstanding any provision of any law or contract which may prevent the City from enforcing such deficiency against, its successors, or its assigns, or which provides that the indebtedness secured by the bonds has been satisfied as the result of the foreclosure thereof.		
6. In the event that Guarantor shall advance or become obligated to pay any sums hereunder, or in the event that for any reason is now or becomes indebted to Guarantor, the amount of such indebtedness shall be subordinate as to time of payment and in all other respects to the amounts owing to the City under the Franchise.		
7. Guarantor hereby warrants to the City that:		
(a) All balance sheets, net worth statements, and other financial statements and data which have heretofore been given to the City with respect to Guarantor are unaudited, but, to Guarantor's knowledge, fairly and accurately represent the financial condition of Guarantor;		
(b) Guarantor has knowledge of the's financial condition and affairs and of all other circumstances which bear upon the risk assumed by Guarantor under this Guarantee; and		
(c) Guarantor shall not transfer any of its assets for the purpose of preventing the City from satisfying any judgment rendered under this Guarantee either before or after the entry of any such judgment.		
8. All written notices, reports, or demands required hereunder shall be deemed given when delivered personally or upon receipt, after being deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:		
If to the City:		
City of Greenville		
Greenville, South Carolina/		
If to Guarantor:		

9. This Guarantee, for all purposes, shall be interpreted and construed in accordance with the laws of the State of South Carolina in which state it is to be performed. The unenforceability of invalidity of any provision or provisions of this Guarantee as to any persons or circumstance shall not render that provision nor any other provision(s) herein unenforceable or invalid as to any other person or circumstance. All provisions hereof, in all other respects, shall remain valid and enforceable.
10. This instrument shall inure to the benefit of the City, its successors, and its assigns, and shall bind Guarantor, its representatives, successors, and assigns. The obligations of Guarantor under this Guarantee shall be enforceable in all events against Guarantor and its successors and assigns.
11. Guarantor expressly consents to be sued in the United States District Court for the State of South Carolina, the United States Court of Appeals for the Circuit, and the United States Supreme Court, or, if the claim asserted does not involve a federal question over which the United States District Court has jurisdiction, then to be sued in the Greenville County District Court or in the District Court for any other county in the State of South Carolina.
IN WITNESS WHEREOF, Guarantor has caused this Guarantee to be executed by its duly authorized officers as of the day and year first above written.
Guarantor
By:
Its:

Secs. 8-596—8-620. - Reserved.

(Ord. No. 2001-74, Att. B, 9-17-01)

Secs. 8-596—8-620. - Reserved.

### ARTICLE XVI. - ESTABLISHMENTS SELLING BEER AND WINE

Sec. 8-621. - Hours of operation for establishments selling beer and wine for on premises consumption.

### Sec. 8-621. - Hours of operation for establishments selling beer and wine for on premises consumption.

(a) All establishments selling beer and wine for on premises consumption must cease serving beer or wine no later than 2:00 a.m. every day, and shall not commence serving those beverages prior to 6:00 a.m. It shall be unlawful for any individual who is an owner, operator, employee, or agent to sell, transfer, serve, or permit others on the premises to be in possession of beer or wine at such

establishment between the hours of 2:00 a.m. and 6:00 a.m.

- (b) No person shall be in possession of beer or wine between the hours of 2:00 a.m. and 6:00 a.m. at an establishment which sells beer or wine for on premises consumption.
- (c) The establishments subject to the restriction in the hours of service and possession set forth in subsection (a) of this section shall include private clubs and room service operations in hotels as well as bars, restaurants, and night clubs open to the public at large.
- (d) The city attorney shall be authorized to pursue any additional or alternative civil remedies as are appropriate to assure timely and on-going compliance of subsection (a) of this section. In addition, any business establishment found to be in violation of this section shall be subject to having its business license suspended or revoked in accordance with procedures otherwise applicable to such proceedings.

(Ord. No. 2005-63, §§ 1—4, 7-22-05)

Editor's note—Ord. No. 2005-63, §§ 1—4, adopted July 22, 2005, did not specify a manner of inclusion of its provisions within the Code; hence, inclusion of its provisions as § 8-621 herein was at the editor's discretion.

### Appendix A

#### Gty OF Greenville Business License Rate Schedule

	<b>Orabidest</b>			15			Miss. Comments		
Rates	BASE FEE FIRST \$2,000 +			OVER \$2,000	BASE FEE FIRST \$2,000 +			OVER \$2,000	
01	\$ 80.00	+ 1.67 + 1.75 + 1.50	NEXT NEXT EXCESS	98,000 9,900,000 10,000,000	\$ 160.00	+3.34 +3.50 +3.00	MEXT MEXT EXCESS	95,000 9,900,000 10,000,000	
02	\$ 135.00	* 1.25 * 0.75 * 0.50	NEXT NEXT EXCESS	1,998,000 500,000 2,500,000	\$ 270.00	+ 2.50 + 1.50 + 1.00	NEXT NEXT EXCESS	1,998,000 500,000 2,500,000	
03	\$ 80.00	+1.67 +1.75 +1.00	NEXT NEXT EXCESS	96,000 24,900,000 25,000,000	\$ 160.00	+ 3.34 + 3.50 + 2.00	NEXT NEXT EXCESS	98,000 24,900,000 25,000,000	
04	\$ 135.00	+ 1.75	EXCESS	2,000	\$ 270.00	+ 3.50	EXCESS	2,000	
05	\$ 135.00	+ 2.00 + 1.75 + 1.00 + 0.50	MEXT MEXT MEXT MEXT	1,998,000 500,000 7,500,000 40,000,000	\$ 270.00	+ 4.00 + 3.50 + 2.00 + 1.00	NEXT NEXT NEXT NEXT	1,998,000 500,000 7,500,000 40,000,000	NOT TO EXCEED \$50,000,000
06	\$ 245.00	+ 2.25	EXCESS	2,000	N/A				
07	\$ 355.00	+2.00 +1.75 +1.00	NEXT NEXT EXCESS	1,998,000 500,000 2,500,000	N/A				
08	\$ 108.00	+1.50 +0.75 +0.25	NEXT EXCESS WORK O	1,998,000 2,000,000 UTSIDE CITY	\$ 216.00	+ 3.00 + 1.50	NEXT EXCESS	1,996,000 2,000,000	RESIDENT CONTRACTORS NOT TO EXCEED \$50,000,000 ON WORK OUTSIDE OF CITY
09	\$ 135.00	+ 1.50 + 1.60 + 0.75	NEXT NEXT EXCESS	1,998,000 500,000 2,500,000	\$ 270.00	+ 3.00 + 2.00 + 1.50	MEXT NEXT EXCESS	1,998,000 500,000 2,500,000	
10	\$ 2,000.00		PEI	ANNUMA I	n/a				
11	\$ 80.00	+ 1.75	EXCESS	2,000	\$ 160.00	+ 3.50	EXCESS.	2,000	
12	EXEMPT \$ 80.00	+ 1.67 + 1.75	FIRST 5,0 NEXT NEXT	4,999 00 to 10,000 90,000 100,000	N/A				
13	\$ 135.00	+2.00 +1.75 +1.00	NEXT NEXT NEXT	1,998,000 500,000 7,500,000	N/A				NOT TO EXCEED \$10,000,000
14	\$ 135.00	+1.25 +0.75 +0.25	MEXT MEXT EXCESS	1,998,000 500,000 2,500,000	N/A				
15	\$ 200.00	+ 1.67 + 1.50 + 1.00	NEXT NEXT EXCESS	1,998,000 5,000,000 7,000,000	N/A				

NOTE: Non-Resident Business Rates Above Are Double The Resident Business Rates.

Appendix "A"
Miscellaneous Fees

Peddlers	Non-refundable application fee (pursuant to City Code Section 6-8-34	\$10.00
	30 day permit	\$160.00
	2 month to 12 month permit (pursuant to City Code Section 6-8-37)	Base fee plus \$10.00 for each
		additional month, requested at
		time of application.
	\$1,000 surety bond required	
L		
Transient Merchants	7 day permit	\$160.00
Group Events	<del></del>	<del></del>
Public Show	Estimated gross revenues from space rentals/ticket sales up to \$10,000 or up to	
	25 exhibitors, whichever is greater.	\$100.00
	Estimated additional revenues of each \$10,000 or portion thereof up to	7100.00
ł		
	\$150,000 or each additional 25 exhibitors or portion thereof up to 250	é ar no
	exhibitors, whichever is greater.	\$35.00
	Estimated gross revenue over \$150,000 or over 250 exhibitors, whichever is	rean on
	greater.	\$500.00
Entertainment Events		\$100.00
	Estimated additional revenue - each additional \$50,000.	\$150.00
	Estimated gross revenue \$150,000 and up.	\$500.00
Coin Operated Machines	Per machine	\$12.50
	<u> </u>	
Street Vendors	Annual street Vendor's Rental Space Permit	\$250.00
Escort, Escort Bureaus and Introductory Services	Escort bureau or introductory service license.	£7E 00
	Application fee	\$75.00
	Renewal fee	\$25.00
	Escort permit.	N
	Application fee	\$35.00
	Annual permit fee	
	Renewal fee	\$15.00
Going out of Business Sales	There is no fee required for filling a Going Out of Business license	\$0.00
Outdoor Displays and		T
Cafes	Annual fee for encroachment permit.	
	Signs	\$50.00
	Encreachments less than 500 square feet	\$150.00
	Encreachments of 500 square feet or more	\$250.00
L	Protect research control to 1972, 1960, "Species, "Goldman or "Lorente" and control of C.	.I
Sexually Oriented Business		
	Application fee	\$100.00
	Annual permit fee	\$500.00
	Sexually oriented business employee license.	
	fee	\$25.00
	400	

# Appendix B

CLASSIFICATION DESCRIPTION	CLASSIFICATION RATE CODES
	(NOTE: "N" INDICATES NON-RESIDENT BUSINESSES)
ACCOUNTANT	5
ACCOUNTANT, NON RESIDENT	N5
ADVERTISING AGENCY	5
ADVERTISING AGENCY, NON RESIDENT	N5
ADVERTISING SALES	5
ADVERTISING SALES, NON RESIDENT	N5
AGENT REPRESENTATIVE	3
AGENT REPRESENTATIVE, NON RESIDENT	N3
AIR TAXI SERVICES	<del>27</del> 14
AIR TAXI SERVICES, NON RES	27 14
AIRCRAFT DISTRIBUTION CENTER	27 14
AIRPLANE CHARTER	3
AIRPLANE CHARTER, NON RES	N3
AIRPLANE MAINT	3
AIRPLANE MAINT, NON RES	N3
AMBULANCE	3
AMBULANCE, NON RESIDENT	N3
AMUSEMENTS	4
AMERICAGENERAL	64
AMUSEMENTS, NONRESIDENT	14
APARTMENTS	3
APPRAISER	3
APPRAISER, NON RESIDENT	N3
ARCHITECT	5
ARCHITECT, NON RESIDENT	N5
ARMORED CAR SERVICE	3
ARMORED CAR SERVICE, NON RESIDENT	N3
ARTIST	3
ARTIST, NON RESIDENT	N3
ASSISTED LIVING FACILITY	1
ATH FTIC CLUB	1 4 1
ATHLETIC CLUB ATHLETIC CLUB, NON RESIDENT	
ATHLETIC CLUB, NON RESIDENT	N4
ATHLETIC CLUB, NON RESIDENT ATTORNEY	N4 5
ATHLETIC CLUB, NON RESIDENT ATTORNEY ATTORNEY, NON RESIDENT	N4 5 N5
ATHLETIC CLUB, NON RESIDENT ATTORNEY ATTORNEY, NON RESIDENT AUCTIONEER	N4 5 N5 3
ATHLETIC CLUB, NON RESIDENT ATTORNEY ATTORNEY, NON RESIDENT AUCTIONEER AUCTIONEER, NON RESIDENT	N4 5 N5 3 N3
ATHLETIC CLUB, NON RESIDENT ATTORNEY ATTORNEY, NON RESIDENT AUCTIONEER AUCTIONEER, NON RESIDENT AUCTIONEER, NON RESIDENT AUTO BODY SHOP	N4 5 N5 3 N3 3
ATHLETIC CLUB, NON RESIDENT ATTORNEY, NON RESIDENT AUCTIONEER AUCTIONEER, NON RESIDENT AUTO BODY SHOP AUTO BODY SHOP, NON RESIDENT	N4 5 N5 3 N3 3 N3
ATHLETIC CLUB, NON RESIDENT ATTORNEY, NON RESIDENT AUCTIONEER AUCTIONEER, NON RESIDENT AUTO BODY SHOP AUTO BODY SHOP, NON RESIDENT AUTO BODY SHOP, NON RESIDENT AUTO DEALER NEW & USED	N4 5 N5 3 N3 3 N3 2
ATHLETIC CLUB, NON RESIDENT ATTORNEY, NON RESIDENT AUCTIONEER AUCTIONEER, NON RESIDENT AUTO BODY SHOP AUTO BODY SHOP, NON RESIDENT	N4 5 N5 3 N3 3 N3

AUTO DEALER USED ONLY, NON RESIDENT	N2
AUTO GARAGE	3
AUTO GARAGE, NON RESIDENT	N3
AUTO PARTS RETAIL	1
AUTO PARTS RETAIL, NON RESIDENT	N1
AUTO PARTS WHOLESALE	2
AUTO PARTS WHOLESALE, NON RESIDENT	N2
AUTO SERVICE STATION	3
AUTO SERVICE STATION, NON RESIDENT	N3
AUTO TRUCK DEALER	2
AUTO TRUCK DEALER, NON RESIDENT	N2
AUTO WASHING	3
AUTO WASHING, NON RESIDENT	N3
AUTOMOBILE RENTAL	3
AUTOMOBILE RENTAL, NON RES	N3
BAIL BONDSMAN	3
BAIL BONDSMAN, NON RESIDENT	N3
BAIL BONDSMAN, SURETY	3
BAIL BONDSMAN, SURETY NON RESIDENT	N3
BAKERY RETAIL	1
BAKERY RETAIL, NON RESIDENT	NI
BAKERY WHOLESALE	2
BAR LOUNGE	6
BARBER	3
BARBER SCHOOL	3
BARBER SHOP	3
BEAUTICIAN	3
BEAUTY SALON	3
BEAUTY SCHOOL	3
BED AND BREAKFAST	3
BILLARD & POOL HALL	4
BINGO OPERATOR	22.6
BOARDING HOUSE	3
BOTTLER & DISTRIBUTOR	2
BOTTLER & DISTRIBUTOR, NON RESIDENT	N2
BOWLING ALLEY	4
BROKER	3
BROKER NON RESIDENT	N3
BROKER COTTON	3
BROKER COTTON, NON RESIDENT	N3
BROKER MERCHANDISE	3
BROKER MERCHANDISE, NON RESIDENT	N/3
BROKER MORTGAGE	3
BROKER MORTGAGE, NON RESIDENT	N3
BROKER OTHER	3
BROKER OTHER, NON RESIDENT	N3
BROKER STOCK	3
BROKER STOCK, NON RESIDENT	N/3
BUILDING MATERIALS	1

BUILDING MATERIALS, NON RESIDENT	l Nit
BURGLAR ALARM SALES & SERV	3
BURGLAR ALARM SALES & SERV. NON RESIDENT	N3
BUS COMPANY	3
BUS COMPANY, NON RESIDENT	N/3
CARPET CLEANER	3
CARPET CLEANER, NON RESIDENT	N43
CATERING	3
CATERING, NON RESIDENT	N3
CHECK CASHING SERVICE	3
CHIROPRACTOR	5
CHIROPRACTOR, NON RESIDENT	N5
CIRCUS & CARNIVAL	4
CIRCUS & CARNIVAL NONRESIDENT	N44
CLINIC	5
CLINIC, NON RESIDENT	N5
COAL DEALER	1
COAL DEALER, NON RESIDENT	NI
COIN DEALER	3
COIN DEALER, NON RESIDENT	N3
EDITORES TEUDISTRUDIS CONCR.	a d
Gerbang selving process in this process with the	84
COIN OPERATED MACHINES DISTRIBUTOR	1
COIN OPERATED MACHINES DISTRIBUTOR, NR	NI
COLLECTION AGENCY	3
COLLECTION AGENCY, NON RESIDENT	N3
COMMERCIAL PROPERTY	24 12
COMPUTER CONSULTANT	3
COMPUTER CONSULTANT, NON RESIDENT	N3
COMPUTER DESIGN	5
COMPUTER DESIGN, NON RESIDENT	N5
COMPUTER SALES	1
COMPUTER SALES, NON RESIDENT	Nt
COMPUTER SERVICE	3
COMPUTER SERVICE, NON RESIDENT	N/3
CONSULTANT	3
CONSULTANT, NON RESIDENT	N3
CONTRACTOR ADJUSTMENT OR YEAR, NON RESID	CA
CONTRACTOR ADJUSTMENT PR YEAR, NON RESID	CA
CONTRACTOR ASPHALT	198
CONTRACTOR ASPHALT, NON RESIDENT	AND NB
CONTRACTOR AWNING	10.8
CONTRACTOR AWNING, NON RESIDENT	NB NB
CONTRACTOR BUILDING	10.8
CONTRACTOR BUILDING, NON RESIDENT	NB NB
CONTRACTOR BURGLAR ALARM	10.8
CONTRACTOR BURGLAR ALARM, NON RESIDENT	NO NB
CONTRACTOR CABINET MANUFACTURER	10.8
CONTRACTOR CABINET MANUFACTURER, NON RES	NB NB

CONTRACTOR CONCRETE FINISH	10.8
CONTRACTOR CONCRETE FINISH, NON RESIDENT	NO NE
CONTRACTOR CONCRETE PUMP	49.8
CONTRACTOR CONCRETE PUMP, NON RESIDENT	NO NS
CONTRACTOR DRYWALL	108
CONTRACTOR DRYWALL, NON RESIDENT	NO N8
CONTRACTOR ELECTRICAL	108
CONTRACTOR ELECTRICAL, NON RESIDENT	NB NB
CONTRACTOR ELEVATOR	10.8
CONTRACTOR ELEVATOR, NON RESIDENT	NO N8
CONTRACTOR FABRICATOR	10.8
CONTRACTOR FABRICATOR, NON RESIDENT	AND NO
CONTRACTOR FENCING	108
CONTRACTOR FENCING, NON RESIDENT	ND N8
CONTRACTOR FIRE ALARM	49.8
CONTRACTOR FIRE ALARM, NON RESIDENT	14D N8
CONTRACTOR FLOOR COVERING	10.8
CONTRACTOR FLOOR COVERING, NON RESIDENT	NO NS
CONTRACTOR FLOOR FINISH	10.8
CONTRACTOR FLOOR FINISH, NON RESIDENT	ND NB
CONTRACTOR GAS PIPING	49.8
CONTRACTOR GAS PIPING. NON RESIDENT	NB N8
CONTRACTOR GLASS	10.8
CONTRACTOR GLASS, NON RESIDENT	ND NB
CONTRACTOR GRADING & EXC	108
CONTRACTOR GRADING & EXC. NON RESIDENT	NO NO
CONTRACTOR HAULER	108
CONTRACTOR HAULER, NON RESIDENT	NO MB
CONTRACTOR HEATING & AIR	10.8
CONTRACTOR HEATING & AIR, NON RESIDENT	ND NB
CONTRACTOR HOME IMPROVEMENT	40.8
CONTRACTOR HOME IMPROVEMENT, NON RES	NO NS
CONTRACTOR HOUSE MOVING DEMO	49.8
CONTRACTOR HOUSE MOVING DEMO, NON RES	NO NB
CONTRACTOR INSULATION	10.8
CONTRACTOR INSULATION, NON RESIDENT	AID NB
CONTRACTOR IRRIGATION	10.8
CONTRACTOR IRRIGATION, NON RESIDENT	NO NS
CONTRACTOR LABOR	44.8
CONTRACTOR LABOR, NON RESIDENT	ND NR
CONTRACTOR LANDSCAPE	49.8
CONTRACTOR LANDSCAPE, NON RESIDENT	AID N8
CONTRACTOR MASONRY	+9-8
CONTRACTOR MASONRY, NON RESIDENT	NO NS
CONTRACTOR MECHANICAL	<del>10</del> 8
CONTRACTOR MECHANICAL NON RESIDENT	NO 148
CONTRACTOR METAL WORKER	10.8
CONTRACTOR METAL WORKER, NON RESIDENT	NO N8
CONTRACTOR OTHER	#0.8
	1

AND STREET AS A PARTICULAR STREET, IN COLUMN 12 AND STREET ASSAULT.	\$ 10F. \$ 10F.
CONTRACTOR OTHER, NON RESIDENT	NO NS
CONTRACTOR PAINTER	+0.8
CONTRACTOR PAINTER, NON RESIDENT	N8 N8
CONTRACTOR PAPER HANGER	10.8
CONTRACTOR PAPER HANGER, NON RESIDENT	NB N8
CONTRACTOR PAVING	10.8
CONTRACTOR PAVING, NON RESIDENT	NO NS
CONTRACTOR PLASTERER	+40-8
CONTRACTOR PLASTERER, NON RESIDENT	NO NS
CONTRACTOR PLUMBING	<del>10</del> 8
CONTRACTOR PLUMBING, NON RESIDENT	NO NS
CONTRACTOR PROPERTY DEVELOPER	<del>10</del> 8
CONTRACTOR PROPERTY DEVELOPER, NON RES	NO N8
CONTRACTOR ROOFER	<del>19</del> 8
CONTRACTOR ROOFER, NON RESIDENT	140 N8
CONTRACTOR SIGN COMPANY	<del>10</del> 8
CONTRACTOR SIGN COMPANY, NON RESIDENT	N9 N8
CONTRACTOR SPRINKLER	10.8
CONTRACTOR SPRINKLER, NON RESIDENT	N9 N8
CONTRACTOR STEAM CLEANING	<del>10</del> 8
CONTRACTOR STEAM CLEANING, NON RESIDENT	NO NO
CONTRACTOR STEAM PIPE	10.8
CONTRACTOR STEAM PIPE, NON RESIDENT	NO NS
CONTRACTOR STEEL ERECTOR	+9 8
CONTRACTOR STEEL ERECTOR, NON RESIDENT	NO NB
CONTRACTOR STONE ERECTOR	<del>10</del> 8
CONTRACTOR STONE ERECTOR, NON RESIDENT	140 N8
CONTRACTOR SWIMMING POOL	10.8
CONTRACTOR SWIMMING POOL, NON RESIDENT	NO NS
CONTRACTOR TILING	44.8
CONTRACTOR TILING NON RESIDENT	NO NB
CONTRACTOR UTILITY	+0.8
CONTRACTOR UTILITY, NON RESIDENT	NO NS
CONTRACTOR WATERPROOFING	<del>10</del> 8
CONTRACTOR WATERPROOFING, NON RESIDENT	NO NS
CONTRACTOR WEATHER STRIPPING	+44-8
CONTRACTOR WEATHER STRIPPING, NON RES	MO NR
CONTRACTOR WOODWORK	49.8
CONTRACTOR WOODWORK, NON RESIDENT	40 N8
COPYING SERVICE	40.8
COPYING SERVICE, NON RESIDENT	NO NS
CORPORATE HEADQUARTERS	3
COLORED DE	
COURSE FOREST NON-RESIDENT	NG
CREDIT BUREAU	3
CREDIT BUREAU, NON RESIDENT	N3
DAIRY PRODUCTS MFG DEALER	2
DAIRY PRODUCTS MFG DEALER, NON RES	N2
	3
DATING SERVICES	

DELIVERY AGENCY	] 3
DELIVERY AGENCY, NON RESIDENT	N3
DENTAL LABORATORIES	5
DENTAL LABORATORIES, NON RESIDENT	N45
DENTISTS	5
DENTISTS, NON RESIDENT	N5
DIRECTORIES	3
DIRECTORIES, NON RESIDENT	N/3
ELEEMOSYMARY ORGANIZATION	3
ELEEMOSYMARY ORGANIZATION, NON RES	N3
ELEVATORS SERVICE & REPAIR	3
ELEVATORS SERVICE & REPAIR, NON RES	N3
EMPLOYMENT AGENCY	3
EMPLOYMENT AGENCY, NON RESIDENT	N3
ENGINEER	5
ENGINEER, NON RESIDENT	N5
ENGRAVERS	3
ENGRAVERS, NON RESIDENT	N3
ESCORT SERVICE	3
ESCORT SERVICE, NON RESIDENT	N3
EVENT PLANNER	3
EXHIBITIONS	24 11
EXTERMINATOR	3
EXTERMINATOR, NON RESIDENT	N3
FABRICATORS, PLASTIC	2
FINANCE COMPANY	7
FINANCE COMPANY, NON RESIDENT	N47
FIRE ALARM SYSTEM & EQUIPMENT	3
FIRE ALARM SYSTEM & EQUIPMENT, NON RES	N3
FLORIST GREENHOUSE	<b>\$</b>
FLORIST GREENHOUSE, NON RESIDENT	N1
FUEL OIL DISTRIBUTORS	3
FUEL OIL DISTRIBUTORS, NON RESIDENT	N/3
ELIEDO (DES 2000) DE COMO DE C	3
CNASTORNAL DONNESSORNE	M3/-
FURNITURE REPAIR & UPHOLSTRY	3
FURNITURE REPAIR & UPHOLSTRY, NON RES	N3
GOLF COURSE	1
GUN AND GUNSMITH	3
GUN AND GUNSMITH, NON RESIDENT	N3
HEALTH CLUB & GYM	3
HEALTH CLUB & GYM, NON RESIDENT	N3
HIGH TECHNOLOGY GROWTH BUSINESSES	26 13
HORSE DRAWN CARRAGE	3
HOTEL MOTEL	4
HOTEL MOTEL, NON RESIDENT	N4
INSURANCE ADJUSTERS	3
INSURANCE ADJUSTERS, NON RESIDENT	N3
INSURANCE AGENT	3

INSURANCE AGENT, NON RESIDENT	l N3 l
INTERIOR DECORATORS	3
INTERIOR DECORATORS, NON RESIDENT	N3
INTRODUCTORY SERVICE	3
INTRODUCTORY SERVICE, NON RESIDENT	N3
JANITORIAL SERVICES	3
JANITORIAL SERVICES, NON RESIDENT	N/3
KENNEL	3
LABORATORIES	5
LABORATORIES, NON RESIDENT	N5
LANDSCAPE ARCHITECT	5
LANDSCAPE ARCHITECT, NON RESIDENT	N5
LAUNDRY AND LINEN SUPPLY	3
LAUNDRY AND LINEN SUPPLY, NON RES	N3
	3
LAUNDRY DRY CLEANERS	N3
LAUNDRY DRY CLEANERS, NON RESIDENT	
LAUNDRY SELF SERVICE	3
LAUNDRY SELF SERVICE, NON RESIDENT	N3
LAWN SERVICE	3
LAWN SERVICE, NON RESIDENT	N3
LEASED EQUIPMENT	3
LEASED EQUIPMENT, NON RESIDENT	N3
LEASED VEHICLES	3
LEASED VEHICLES, NON RES	N3
LIMOUSINE SERVICE	3
LIMOUSINE SERVICE, NON RESIDENT	N3
LOCKSMITH	3
LOCKSMITH, NON RESIDENT	N3
MACHINE SHOP	2
MACHINE SHOP, NON RESIDENT	N2
MACHINERY AGENT DEALER	2
MACHINERY AGENT DEALER, NON RESIDENT	N2
MAGAZINE NEWPAPER DISTRIBUTORS	2
MAGAZINE NEWSPAPER DISTRIBUTORS, NON RES	N2
MANAGEMENT SERVICE	3
MANAGEMENT SERVICE, NON RESIDENT	N3
MANICURIST	3
MANUFACTURER	2
MANUFACTURER, NON RESIDENT	N2
MANUFACTURERS AGENT	3
MANUFACTURERS AGENT, NON RESIDENT	N3
MASSAGE THERAPIST	3
MASSAGE THERAPIST, NON RESIDENT	N3
MEUSINGES	2
MUSIPPUS NON RESIDENT	NZ
MONUMENT TOMBSTONE DEALER	1
MONUMENT TOMBSTONE DEALER, NON RESIDENT	NI
MORTGAGE COMPANY	7
MORTGAGE COMPANY, NON RESIDENT	N7
MONTON CASE COMMENTS, TOTAL RECEIPERS	175

MORTUARY	1
MORTUARY, NON RESIDENT	NI
MOTORCYCLE DEALER	2
MOTORCYCLE DEALER, NON RESIDENT	N2
MOVING VAN TRANSFER COMPANY	3
MOVING VAN TRANSFER COMPANY, NON RESIDEN	N3
NEWSPAPER PUBLISHER	11
NEWSPAPER PUBLISHER, NON RESIDENT	NN
NIGHTCLUBS TAVERNS BARS RELATED CLUBS	25.6
NON-MOTORIZED VEHICLES	3
NURSE PRACTITIONER	5
NURSE PRACTITIONER NON RES	N5
NURSE REGISTRY	3
NURSE REGISTRY, NON RESIDENT	N3
NURSING CONVALESCENT HOME	3
OFFICE MAINTAINED	15
OPTICIAN	5
OPTICIAN, NON RESIDENT	N5
OFTOMETRISTS	5
OPTOMETRISTS, NON RESIDENT	N5
OSTEOPATH	5
OSTEOPATH, NON RESIDENT	NE
PARKING LOT	3
PAWN SHOP	Ĭ
PEDDLER	1
PHOTOGRAPH DEVELOP FINISHER	3
PHOTOGRAPH DEVELOP FINISHER, NON RESIDEN	N3
PHOTOGRAPHER COMMERCIAL	3
PHOTOGRAPHER COMMERCIAL NON RESIDENT	NS.
PHOTOGRAPHER, NON RESIDENT	N3
PHOTOGRAPHER, PORTRAITS	3
PHYSICAL THERAPIST	5
PHYSICAL THERAPIST, NON RESIDENT	N/5
PHYSICIAN SURGEON	5
PHYSICIAN SURGEON, NON RESIDENT	N5
PIANO ORGAN TUNER REPAIR	3
PIANO ORGAN TUNER REPAIR, NON RESIDENT	N3
CANADA PARA PARA PARA PARA PARA PARA PARA P	
PLANING WILL NOW PIECEDENT	The state of the s
PATRICAL	The state of the s
REAL PROPERTY OF THE PROPERTY	10
PRINTER	3
PRINTER, NON RESIDENT	N3
PRIVATE CLUB	4
PRIVATE CLUB SERVING ALCOHOL	6
	3
PRIVATE DETECTIVE AGENCY NON BES	N3
PRIVATE DETECTIVE AGENCY, NON RES	
PROFESSIONAL OTHER	
PROFESSIONAL OTHER, NON RESIDENT	NI5

PROPERTY MANAGEMENT	3
PROPERTY MANAGEMENT, NON RESIDENT	N3
PSYCHOTHERAPY	5
PSYCHOTHERAPY, NON RESIDENT	N5
RADIO STATION	11.9
RADIO STATION, NON RESIDENT	AUN NO
RADIO TV REPAIR	3
RADIO TV REPAIR, NON RESIDENT	N3
RAILROAD GREENVILLE & NORTHERN	16
RAILROAD SEABOARD COASTLINE	<del>47</del> 10
RAILROAD SOUTHERN SUBSID	<del>17</del> 10
REAL ESTATE AGENT	3
REAL ESTATE AGENT, NON RESIDENT	N3
RENTAL EQUIPMENT	3
RENTAL EQUIPMENT, NON RESIDENT	N3
REPAIR SHOP	3
REPAIR SHOP, NON RESIDENT	N3
RESIDENTIAL OTHER RENTAL	3
RESTAURANT	4
RESTAURANT CLOSING AFTER MIDNIGHT	6
RESTAURANT SERVING ALCOHOL	4
RETAIL BUSINESS	#
RETAIL BUSINESS, NON RESIDENT	NI
Description - 179135	
SCHOOL BUSINESS	3
SCHOOL BUSINESS, NON RESIDENT	N3
SCHOOL DANCE	3
SCHOOL DANCE, NON RESIDENT	N/3
SCHOOL DRIVING	3
SCHOOL DRIVING, NON RESIDENT	N3
SCHOOL KINDERGARTEN NURSERY	3
SCHOOL KINDERGARTEN NURSERY, NON RES	N3
SCHOOL MUSIC	3
SCHOOL MUSIC, NON RESIDENT	N3
SCHOOL NOT OTHERWISE CLASSIFIED	3
SCHOOL NOT OTHERWISE CLASSIFIED, NON RES	N3
SEASONAL BUSINESS	NI
SECURITY GUARD SERVICE	3
SECURITY GUARD SERVICE, NON RESIDENT	N3
SERVICE BUSINESS	3
SERVICE BUSINESS, NON RESIDENT	N/3
SERVICE BUSINESS, ON LINE SERVICES	3
SERVICE BUSINESS, ON LINE SERVICES NR	N/3
SHOE SHOP	3
SHOE SHOP, NON RESIDENT	N3
SHUTTLE VAN	3
SHUTTLE VAN, NON RESIDENT	N3
SIGN ADVERTISING BILLBOARDS	3
SIGN ADVERTISING BILLBOARDS, NON RES	N3
COCOSTANTA ATTAINS CONTRACTORS IN THE CALL OF THE TREE	1

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